SENATE FISCAL OFFICE
REPORT

GOVERNOR'S FY2021
AND
FY2020 SUPPLEMENTAL BUDGET

2020-H-7171 AND 2020-H-7170

ARTICLE SUMMARIES

FEBRUARY 28, 2020

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Table of Contents

FY2020 SUPPLEMENTAL BUDGET ARTICLE

Article 1: Relating to Making Revised Appropriations in Support of FY2020

Article 1 outlines the appropriation amounts from all fund sources for the FY2020 Supplemental Budget. In most cases, the appropriations are by fund source at the program level in each department or agency. The article includes the FTE position authorizations by department or agency. Other sections of the article outline the use of contingency funds; expenditure limits for internal service funds; and, disbursements of Lottery, Temporary Disability Insurance, Employment Security, and University and College Funds. This article makes appropriations for general revenues, federal, restricted, and other funds, and authorizes FTE levels for each agency and department. Article 1 also makes the following changes:

- Sets the airport impact aid formula at $1.0 million.
- Authorizes 15,095.7 FTE positions reflecting an increase of 21.0 FTE positions as compared to the authorized level set in the FY2020 Budget as Enacted.
- Details Community Service Objective grant funding recipients and amounts.
- Requires that all unexpended or unencumbered balances relating to the University of Rhode Island, Rhode Island College, and the Community College of Rhode Island, be reappropriated to FY2021. In addition, the Office of the Postsecondary Commissioner shall provide $355,000 to the Rhode Island College Crusade, $75,000 to Best Buddies Rhode Island, $6.9 million to the Rhode Island Promise Scholarship program, and $147,000 to support the State's membership in the New England Board of Higher Education. Also the University of Rhode Island shall allocate $350,000 to the Small Business Development Center and allocate $50,000 to Special Olympics Rhode Island.
- Caps the amount the Judiciary may charge five state agencies (Public Defender's Office, Office of the Attorney General, Department of Corrections, DCYF, and Department of Public Safety) for public courthouse occupancy costs at $1.4 million. It requires Judiciary to provide $230,000 to the Rhode Island Coalition Against Domestic Violence for domestic abuse court advocacy and $90,000 to the Rhode Island Legal Services to provide housing and eviction defense to indigent individuals.
- Increases transfers from several quasi-public agencies and from unexpended bond proceeds by $16.7 million to the State Controller by June 30, 2020, to support the General Fund.

APPROPRIATIONS

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

Expenditures by Source	FY2019 Final	FY2020 Enacted	FY2020 Governor	*Change to Enacted*
General Revenue	$3,924.0	$4,077.6	$4,086.3	*$8.7*
Federal Funds	3,118.7	3,325.4	3,325.2	*(0.2)*
Other Funds	2,075.4	2,256.3	2,267.1	*10.8*
Restricted Receipts	259.6	311.4	383.2	*71.9*
Total	**$9,377.7**	**$9,970.6**	**$10,061.8**	***$91.1***

$ in millions. Totals may vary due to rounding.

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

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

Internal Service Account	FY2020 Enacted	FY2020 Governor	*Change*
State Assessed Fringe Benefits	$37,377,620	$37,885,909	*$508,289*
Administration Central Utilities	23,055,162	27,422,775	*4,367,613*
State Central Mail	6,290,947	6,610,350	*319,403*
State Telecommunications	3,450,952	3,530,421	*79,469*
State Automotive Fleet	12,740,920	12,730,668	*(10,252)*
Surplus Property	3,000	3,000	-
Health Insurance	252,444,854	273,609,071	*21,164,217*
State Fleet Revolving Loan Fund	273,786	9,447	*(264,339)*
Other Post-Employment Benefits	63,858,483	63,858,483	-
Capital Police	1,479,703	1,404,564	*(75,139)*
Corrections Central Distribution Center	6,798,359	6,800,468	*2,109*
Correctional Industries	8,191,195	8,154,048	*(37,147)*
Secretary of State Records Center	969,729	984,540	*14,811*
Human Resources Internal Service Fund	14,847,653	13,381,939	*(1,465,714)*
DCAMM Facilities Internal Service Fund	40,091,033	40,214,312	*123,279*
Information Technology Internal Service Fund	44,113,005	44,127,512	*14,507*
Total	**$515,986,401**	**$540,727,507**	***$24,741,106***

- **Health Insurance:** According to the Budget Office, part of increase is to meet historical funding levels, while the rest of the increase is to meet medical claims with an estimate in spending for FY2020, and reflects the employee health insurance increase that went into effect January 1, 2020.
- **Administration Central Utilities:** The increase reflects historical expenditures and accounts for recent rate increases for natural gas.

FUND TRANSFERS

Article 1 in the FY2020 Revised Budget proposes additional transfers from several quasi-public entities be made to the State Controller by June 30, 2020, to support the General Fund. The article further proposes the transfer of funds from three restricted receipt funds and the transfer of unexpended bond proceeds to the General Fund. This reflects an increase of $8.9 million from Rhode Island Infrastructure Bank, and $5.0 million from the Rhode Island Resource Recovery Corporation (RIRRC). The following table illustrates the required transfers for FY2019 and FY2020:

Agency	FY2019 Final	FY2020 Enacted	FY2020 Governor	*Change*
Infrastructure Bank	$4.0	$4.0	12.9	*$8.9*
RI Housing	-	1.5	1.5	-
Quonset Development Corporation	-	1.2	1.2	-
RI Resource Recovery	-	-	5.0	*5.0*
RI Student Loan Authority	-	1.5	1.5	-
DEM - Oil Spill Prevention, Administration Response Fund	-	-	1.0	*1.0*
DEM - Underground Storage Tank Trust Fund	-	-	1.0	*1.0*
DEM - Government Entities - Inceptors Bond Funds	1.1	-	-	-
DEM - Government Water Pollution Control Bond Funds	0.1	-	-	-
DEM - Private Water Pollution Control Facility Bond Funds	0.0	-	-	-
DEM - State Rec. Facilities Development Renovation Bond	0.0	-	-	-
DEM - Local Recreational Facilities Distressed Bond Fund	0.0	-	-	-
DEM - 25 India Street (Shooter's) Bond Fund	0.2	-	-	-
DEM - Non-Point Pollution Control Bond Fund	-	-	0.1	*0.1*
DEM - Rocky Point Park Bond Fund	-	-	0.2	*0.2*
BHDDH - Asset Forfeiture Restricted Receipts	-	-	0.5	*0.5*
Commerce Corporation - Anchor Institution Tax Credit	0.8	-	-	-
Commerce Corporation - First Wave Closing Fund	-	5.0	5.0	-
Total	**$6.2**	**$13.2**	**$29.9**	***$16.7***

$ in millions

Rhode Island Infrastructure Bank: The FY2020 Budget as Enacted requires the Rhode Island Infrastructure Bank (RIIB) to transfer $4.0 million to the State Controller by June 30, 2020, bringing the total amount transferred from RIIB from FY2018 to FY2020 to $11.5 million. The Governor proposes an additional transfer of $8.9 million in FY2020, funds that were recently contributed to RIIB's restricted Municipal Road & Bridge program from the State's bond proceeds, and $5.0 million in FY2021. If the proposed transfers are enacted, RIIB will have lost $24.5 million of infrastructure funds over 4 fiscal years.

The proposed FY2020 Supplemental Budget contains the first transfer from a restricted lending program of RIIB, namely the Municipal Road & Bridge program. According to RIIB, a transfer of $8.9 million will result in RIIB having insufficient capital to meet demand for road and bridge project financing from municipalities in FY2020. The transfer of $17.9 million over FY2020 and FY2021 will impact RIIB's operating capital. RIIB utilizes this capital to supplement lending programs in clean water, drinking water, municipal road & bridge, and municipal energy (Efficient Building Fund or EBF). RIIB has used operating capital to make over $26.0 million of below-market infrastructure loans to municipalities. RIIB also uses this capital to make lending commitments when municipalities require the financing, rather than having to wait for the annual program bonds. This makes RIIB's financing programs more responsive to the timing of municipal infrastructure needs while reducing the cost of such investments.

RIIB also uses its operating capital to develop new programs and meet special infrastructure financing needs. In the past year, RIIB has committed $1.0 million to fund zero-interest loans to homeowners for remediation of lead pipe connections to municipal water mains. RIIB anticipates making another $3.0 million available to meet homeowner demand for this important investment in safe drinking water. RIIB also used operating capital to supplement the Efficient Building Fund loan demand, reducing the cost of energy to municipalities. In addition, $2.0 million of operating capital was committed to the inaugural round of the Municipal Resiliency Program, which assists municipalities in developing resiliency plans and investing in projects to protect against the impact of climate change. Without operating capital, such programs would not have been possible.

Rhode Island Resource Recovery Corporation: The Budget requires the Rhode Island Resource Recovery Corporation (RIRRC) to transfer $5.0 million in landfill tip fee revenues to the State Controller in FY2020. Both the 2017 and 2019 State of Rhode Island Debt Affordability Studies, issued by the Public Finance Management Board (5-3-2017 and 7-25-2019, respectively) recommend 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 use cash to self-fund future operations.

According to the RIRRC, if enacted, the $10.0 million forfeiture would impact the existing FY2019 audited (9-30-2019) unrestricted net position of $45.5 million, which will be used along with operating funds to support $170.0 million in new landfill construction, heavy equipment repairs/purchases, debt covenant requirements, and other capital investments required to provide long-term disposal and recycling services to the state of Rhode Island over the next 6 years. Based on the current financial plan and projected cash requirements, the Corporation would be required to take one or more of the following actions to offset the transfer: defer necessary capital investments, increase revenues through price increases, reduce operational costs, or seek subsidies from the State.

Restricted Receipt Funds: The article transfers $1.0 million in restricted receipts from the Oil Spill Prevention, Administration Response (OSPAR) Fund, $1.0 million in restricted receipts from the Underground Storage Tank Trust (UST) Fund, and $500,000 in restricted receipts from the Asset Forfeiture account in BHDDH to the State Controller for deposit in the General Fund by June 30, 2020.

- ***DEM – Oil Spill Prevention, Administration Response Fund***: The article transfers $1.0 million from the Oil Spill Prevention, Administration and Response (OSPAR) restricted receipt fund to the general revenue fund by June 30, 2020. The OSPAR Fund was established in 1996 in response to the environmental damage caused by the North Cape Oil Spill along the Rhode Island coast. Pursuant to RIGL 46-12.7-5.1, the funds may be used to cover the costs of response, containment, and cleanup of oil spills into marine or estuarine waters. The OSPAR Fund may also be used for structural improvements to reduce the risk of oil tanker spills, restoration of natural resources, response training and equipment, and monitoring activities. The fund is capitalized primarily with a fee of $0.05 for each barrel of petroleum products received at a marine terminal in the State. The North Cape spill cost the State approximately $3.0 million ($4.8 million in today's dollars).

  Through Article 7 of the FY2021 Budget, the Governor recommends increasing the cap on the per-barrel the fee from $0.05 to $0.10 to replenish the fund, as well as capitalizing a new Ocean State Climate Adaptation and Resilience (OSCAR) Fund. Of the $0.05 increase, $0.02 (an estimated $743,217) would go to the OSPAR Fund and $0.03 (an estimated $1.1 million) would be deposited into the OSCAR Fund. The OSCAR Fund is a restricted receipt account within DEM that would be used for adaptation and resilience projects.

  The table estimates the impact of the proposed transfer without the fee increase proposed in Article 7. Over the last five years, expenditures from the fund have averaged $2.1 million annually.

Oil Spill Prevention, Administration Response Fund

	FY2020	FY2021
Carry Forward	$3,188,721	$1,376,878
Total Account Revenue[1]	1,773,974	1,773,974
Total Account Expenditures[1]	(2,585,817)	(2,511,933)
FY2020 Transfer	(1,000,000)	
Difference	**$1,376,878**	**$638,919**

[1]Revenue and expenditures are based on DEM's FY2021 Budget Request.

- ***DEM – Underground Storage Tank (UST) Trust Fund:*** The article transfers $1.0 million from the UST restricted receipt fund to the general revenue fund by June 30, 2020. Rhode Island currently has 500 facilities with 1,350 underground storage tanks, all of which pose a potential environmental threat if leakage should occur. The Underground Storage Tank (UST) Clean-up Fund was created in 1994 to provide an effective mechanism for USTs owners to comply with financial responsibility requirements, and to ensure that the environmental and public health impacts of UST leaks are addressed in an effective and timely manner. While the Rhode Island Department of Environmental Management (DEM) supervises the clean-up process and insures that each project meets state requirements, the Rhode Island Underground Storage Tank Financial Responsibility Fund Review Board (Review Board) oversees the clean-up fund. Funding for the underground storage tank fund is derived from the following.

- **Annual registration fees:** Owners/Operators of Underground Storage Tanks pay an annual Registration Fee of $75 per tank. Furthermore, Rule 6.13 of the DEM Regulations allows for the collection of late fees of $35.00 per tank per year for failure to pay the renewal fee within 45 days from the date of the original notice and invoice.
- **Application fees:** The first step of the reimbursement process requires the owner/operator to pay a $150 fee with the submission of a Compliance Application.
- **Gas Tax**: Of the one cent ($0.01) per gallon environmental protection regulatory fee on motor fuel, one-half cent ($0.005) is paid to the underground storage tank review board.
- **Interest**: All environmental protection regulatory fees, including tank registration fees are kept in an interest bearing restricted receipt account.
- **Other**: The law allows for funding from gifts, grants, bequests, donations or other funds from any public or private sources as well as any funds the state may appropriate from time to time.

Underground Storage Tank Trust Fund

	FY2020	FY2021
Balance Forward	$3.0	$2.5
Average Revenue FY2015 - FY2019	2.0	2.0
Budgeted Expenditures	(1.5)	(1.5)
Transfer to General Fund	(1.0)	-
Total	**$2.5**	**$3.0**

Source: Departmental Environmental Management

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

- **BHDDH – Asset Forfeiture:** The article transfers $500,000 from the Asset Forfeiture restricted receipt account within the Department of Behavioral Health, Developmental Disabilities, and Hospitals (BHDDH) to the general revenue fund by June 30, 2020. Law enforcement agencies may seize certain assets utilized by individuals for the purpose of illegal distribution of controlled substances. Proceeds from the forfeited assets are distributed to several state agencies, including 10.0 percent to BHDDH for substance use disorder treatment programs.

Analyst Note: BHDDH has not expended any of the funds and has accrued over $500,000. The Budget transfers the funds for general purpose, and proposes changes to RIGL 21-28-5.04 under Article 3, section 5, to allow for funds to be used for substance use disorder prevention activities in addition to treatment programs to allow for future expenditures.

Unexpended General Obligation Bond Proceeds: The article transfers certain unexpended bond proceeds on two general obligation bond issuance for projects under the Department of Environmental Management to the State Controller for deposit in the General Fund by June 30, 2020. According to the Office of Management and Budget, per Internal Revenue Service Code, any pooled bond funds are to be used within three years of issuance or else the funding can go towards debt servicing. OMB also stated that although the funds will be transferred to the general fund and assigned to pay off the outstanding debt related to these projects.

- ***DEM – Non-Point Pollution Control Bond Fund:*** The Budget transfers $67,684 in unissued bond funds from the Non-Point Pollution Control bond approved by voters in 1990. The original bond amount was for $1.0 million. The transfer will leave a balance of about $140,000 to complete the final project with the Rhode Island State Conservation Committee and the Eastern RI Conservation District for Hoogendoorn Nurseries Stormwater Management Improvements. This project will reduce sediment and nutrient loadings from a large container nursery that drains to the Maidford River and Nelson Pond in Middletown. The Department of Environmental Management (DEM) indicated the transferred funds will be sued toward debt service payments.
- ***DEM – Rocky Point Park Bond fund:*** The Budget transfers $189,425 from the Rocky Point Park bond approved by voters in 2010. The original bond was for $10.0 million to acquire title to Park, which has been completed. The Department of Environmental Management (DEM) indicated the transferred funds will be sued toward debt service payments.

FTE POSITION CAP AND APPROVAL

Article 1 establishes the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. Statewide, the Governor recommends a net increase of 21.0 FTE positions from the FY2020 Budget as Enacted. The following table outlines the changes included in the Governor's proposal:

Expense by Function	FY2020 Enacted	FY2020 Governor	*Change to Enacted*
General Government	2,406.9	2,406.9	*0.0*
Human Services	3,556.6	3,577.6	*21.0*
Education	3,953.4	4,218.4	*265.0*
Public Safety	3,190.0	3,190.0	*0.0*
Natural Resources	424.0	424.0	*0.0*
Transportation	755.0	755.0	*0.0*
Subtotal	**14,285.9**	**14,571.9**	***286.0***
Higher Ed. Sponsored Positions	*788.8*	*523.8*	*(265.0)*
Total FTE Positions	**15,074.7**	**15,095.7**	***21.0***

FY2021 BUDGET ARTICLES

Article 1: Relating to Making Appropriations in Support of FY2021

Article 1 outlines the appropriation amounts from all fund sources for FY2021. In most cases, the appropriations are by fund source at the program level in each department or agency. The article includes the FTE position authorizations by department or agency. Other sections of the article outline the use of contingency funds; out-year appropriation changes in Rhode Island Capital Plan Fund projects; expenditure limits for internal service funds; and, disbursements of Lottery, Temporary Disability Insurance, Employment Security, and University and College Funds.

This article also:

- Sets the airport impact aid formula at $1.0 million.
- Authorizes 15,074.7 FTE positions reflecting no net change as compared to the authorized level set in the FY2020 Budget as Enacted.
- Details Community Service Objective grant funding recipients and amounts.
- Authorizes appropriations from the Rhode Island Intermodal Surface Transportation Fund towards specific projects in FY2022, FY2023, FY2024, and FY2025.
- Requires that all unexpended or unencumbered balances relating to the Rhode Island Intermodal Surface Transportation Fund be reappropriated to FY2021.
- Requires that all unexpended or unencumbered balances relating to the University of Rhode Island, Rhode Island College, and the Community College of Rhode Island, be reappropriated to FY2022. In addition, the Office of the Postsecondary Commissioner shall provide $355,000 to the Rhode Island College Crusade, $75,000 to be allocated to Best Buddies Rhode Island, $7.2 million be allocated to the Rhode Island Promise Scholarship program, and $147,000 to be used to support the State's membership in the New England Board of Higher Education. Also the University of Rhode Island shall allocate $350,000 to the Small Business Development Center and shall allocate $50,000 to Special Olympics Rhode Island.
- Caps the amount the Judiciary may charge five state agencies (Public Defender's Office, Office of the Attorney General, Department of Corrections, DCYF, and Department of Public Safety) for public courthouse occupancy costs at $1.5 million. It requires the Judiciary to provide $230,000 to the Rhode Island Coalition Against Domestic Violence for domestic abuse court advocacy and requires $90,000 be provided to the Rhode Island Legal Services to provide housing and eviction defense to indigent individuals.
- Requires that Rhode Island Housing and Mortgage Finance Corporation continue to provide resources to support the Neighborhood Opportunities Program; an amount, however, is not designated. The Article requires a report be provided to the Director of Administration, chair of the Housing Resources Commission, State Budget Officer, and the chairs of the House and Senate Finance Committees on the number of housing units produced and funding.
- Requires transfers be made to the State Controller by June 30, 2021: $5.0 million from the Rhode Island Resource and Recovery Corporation, $5.0 million from the Rhode Island Infrastructure Bank, $2.0 million from Rhode Island Student Loan Authority, $2.0 million from the Narragansett Bay Commission, $1.1 million from RI Housing, and $1.0 million from the Rhode Island Health and Educational Building 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, 2021.

Expenditures by Source	FY2019 Final	FY2020 Enacted	FY2021 Governor	*Change to Enacted*
General Revenue	$3,924.0	$4,077.6	$4,247.8	*$170.2*
Federal Funds	3,118.7	3,325.4	3,323.1	*(2.3)*
Other Funds	2,075.4	2,256.2	2,275.2	*19.0*
Restricted Receipts	259.6	311.4	348.9	*37.5*
Total	**$9,377.7**	**$9,970.6**	**$10,195.0**	***$224.4***

$ 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 FY2021.

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

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State Assessed Fringe Benefits	$37,377,620	$37,505,032	*$127,412*
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State Central Mail	6,290,947	6,583,197	*292,250*
State Telecommunications	3,450,952	3,552,053	*101,101*
State Automotive Fleet	12,740,920	12,743,910	*2,990*
Surplus Property	3,000	3,000	-
Health Insurance	252,444,854	273,639,595	*21,194,741*
State Fleet Revolving Loan Fund	273,786	264,339	*(9,447)*
Other Post-Employment Benefits	63,858,483	63,858,483	-
Capital Police	1,479,703	1,429,798	*(49,905)*
Corrections Central Distribution Center	6,798,359	6,868,331	*69,972*
Correctional Industries	8,191,195	8,231,177	*39,982*
Secretary of State Records Center	969,729	1,046,670	*76,941*
Human Resources Internal Service Fund	14,847,653	13,937,328	*(910,325)*
DCAMM Facilities Internal Service Fund	40,091,033	42,849,110	*2,758,077*
Information Technology Internal Service Fund	44,113,005	49,488,621	*5,375,616*
Total	**$515,986,401**	**$549,427,633**	***$33,441,232***

- **Health Insurance:** According to the Budget Office, part of the increase is to meet historical funding levels, while the rest of the increase is to meet medical claims with an estimate in spending for FY2021, and reflects the employee health insurance increase that went into effect January 1, 2020.
- **Administration Central Utilities:** The increase reflects historical expenditures and accounts for recent rate increases for natural gas.
- **Information Technology ISF:** The increase in funding continues funding of the Microsoft Office 365 licensing and staff and operating costs increases.
- **DCAMM Facilities ISF**: The increase is due to several items, including higher natural gas rates, the full year expenses for a new statewide janitorial contract, which is covering more buildings, and additional security costs at the Pastore Center.

FUND TRANSFERS

Article 1 requires transfers from several quasi-public entities be made to the State Controller by June 30, 2021, to support the General Fund. This includes $5.0 million from the Rhode Island Infrastructure Bank, $5.0 million from the Rhode Island Resource Recovery Corporation, $2.0 million from Rhode Island Student Loan Authority, $2.0 million from the Narragansett Bay Commission, $1.1 million from RI Housing, and $1.0 million from the Rhode Island Health and Educational Building Corporation.

Agency	FY2020 Enacted	FY2020 Governor	*Change*	FY2021 Governor	*Change*
Health and Educational Building	$0.0	$0.0	*$0.0*	$1.0	*$1.0*
Narragansett Bay Commission	-	-	-	2.0	*2.0*
Infrastructure Bank	4.0	12.9	*8.9*	5.0	*1.0*
RI Housing	1.5	1.5	-	1.1	*(0.4)*
Quonset Development Corporation	1.2	1.2	-	-	*(1.2)*
RI Resource Recovery	-	5.0	*5.0*	5.0	*5.0*
RI Student Loan Authority	1.5	1.5	-	2.0	*0.5*
DEM - Oil Spill Prevention, Administration Response Fund	-	1.0	*1.0*	-	-
DEM - Underground Storage Tank Trust Fund	-	1.0	*1.0*	-	-
DEM - Non-Point Pollution Control Bond Fund	-	0.1	*0.1*	-	-
DEM - Rocky Point Park Bond Fund	-	0.2	*0.2*	-	-
BHDDH - Asset Forfeiture Restricted Receipts	-	0.5	*0.5*	-	-
Commerce Corporation - First Wave Closing Fund	5.0	5.0	-	-	*(5.0)*
Total	**$13.2**	**$29.9**	***$16.7***	**$16.1**	***$2.9***

$ in millions

Rhode Island Infrastructure Bank: The FY2020 Budget as Enacted requires the Rhode Island Infrastructure Bank (RIIB) to transfer $4.0 million to the State Controller by June 30, 2020, bringing the total amount transferred from RIIB from FY2018 to FY2020 to $11.5 million. As part of the FY2020 revised budget, the Governor proposes an additional transfer of $8.9 million in FY2020, funds that were recently contributed to RIIB's restricted Municipal Road & Bridge program from the State's bond proceeds, and proposes another $5.0 million transfer in FY2021. If the proposed transfers are enacted, RIIB will have lost $24.5 million of infrastructure funds over 4 fiscal years.

The proposed Supplemental FY2020 Budget contains the first transfer from a restricted lending program of RIIB, namely the Municipal Road & Bridge program. According to RIIB, a transfer of $8.9 million will result in RIIB having insufficient capital to meet demand for road and bridge project financing from municipalities in FY2020. The transfer of $17.9 million over FY2020 and FY2021 will impact RIIB's operating capital. RIIB utilizes this capital to supplement lending programs in clean water, drinking water, municipal road & bridge, and municipal energy (Efficient Building Fund or EBF). RIIB has used operating capital to make over $26.0 million of below-market infrastructure loans to municipalities. RIIB also uses this capital to make lending commitments when municipalities require the financing, rather than having to wait for the annual program bonds. This makes RIIB's financing programs more responsive to the timing of municipal infrastructure needs while reducing the cost of such investments.

RIIB also uses its operating capital to develop new programs and meet special infrastructure financing needs. In the past year, RIIB has committed $1.0 million to fund zero-interest loans to homeowners for remediation of lead pipe connections to municipal water mains. RIIB anticipates making another $3.0 million available to meet homeowner demand for this important investment in safe drinking water. RIIB also used operating capital to supplement the Efficient Building Fund loan demand, reducing the cost of energy to municipalities. In addition, $2.0 million of operating capital was committed to the inaugural round of the Municipal Resiliency Program, which assists municipalities in developing resiliency plans and investing in projects to protect against the impact of climate change. Without operating capital, such programs would not have been possible.

Rhode Island Resource Recovery Corporation: The Budget requires the Rhode Island Resource Recovery Corporation (RIRRC) to transfer $5.0 million in landfill tip fee revenues to the State Controller in FY2021 and FY2020. Both the 2017 and 2019 State of Rhode Island Debt Affordability Studies, issued by the Public Finance Management Board (5-3-2017 and 7-25-2019, respectively) recommend 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 use cash to self-fund future operations.

According to the RIRRC, if enacted, the $10.0 million forfeiture would impact the existing FY2019 audited (9-30-2019) unrestricted net position of $45.5 million, which will be used along with operating funds to support $170.0 million in new landfill construction, heavy equipment repairs/purchases, debt covenant requirements, and other capital investments required to provide long-term disposal and recycling services to the state of Rhode Island over the next 6 years. Based on the current financial plan and projected cash requirements, the Corporation would be required to take one or more of the following actions to offset the transfer: defer necessary capital investments, increase revenues through price increases, reduce operational costs, or seek subsidies from the State.

Narragansett Bay Commission: The article requires the Narragansett Bay Commission (NBC) to transfer $2.0 million to the State Controller by the end of FY2021. According to the NBC, if it occurs, the transfer would impact some of the State's poorest communities that are already projected to face future rate increases due to capital improvement projects. According to NBC, the rate increase necessary to generate $2.0 million is 1.9 percent or $9.78 per year for the average single-family homeowner. NBC also expressed concerns about the impact of the transfer on the Commission's bond rating and whether such a transfer would be legal given the constraints of the Trust Indenture and various other legal obligations.

Rhode Island Student Loan Authority: The Budget requires the Rhode Island Student Loan Authority (RISLA) to transfer $2.0 million to the State Controller for deposit in the General Fund in FY2021 and $1.5 million in FY2020. RISLA, a non-profit State authority, provides low cost higher education loans and refinances other existing higher education loans at a lower rate. Since 1998 RISLA's College Planning Centers have provided free admissions, planning, and financial aid counseling, and currently serves over 16,000 students and families a year. According to the Authority, to make these payments to the State, RISLA will have to increase the amount of its bond issues. Therefore, for these two transfers RISLA's debt service will increase approximately $545,000 per year for six or seven years. This may in turn have to be passed along in the form of higher education loan interest rates for students and their families; however, the actual impact is indeterminable at this time. RISLA has indicated that at this time a ratings downgrade is unlikely; however, if the transfers become a regular occurrence it may become more difficult for RISLA to obtain the high bond ratings that are needed to continue to obtain low cost funding for students and parents.

Rhode Island Housing and Mortgage Finance Corporation: Article 1 requires the Rhode Island Housing and Mortgage Finance Corporation (RIHousing) to transfer $1.1 million to the State Controller for deposit in the General Fund by June 30, 2021. The article also authorizes RIHousing to use any uncommitted funds appropriated for the Department of Behavioral Health and Developmental Disabilities (BHDDH) housing modification programs.

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

- **BHDDH Program Reserves:** Article 1 authorizes RIHousing to use half of the any accumulated unspent funds within BHDDH's Thresholds and Access to Independence programs to support the increase of community-based housing options for individuals with behavioral health issues and developmental disabilities. This authorization is intended as an expansion of RIHousing activities beyond the traditional scope of the programs. According to RIHousing, it has been challenging to allocate program funds in recent years due to the difficulty of identifying eligible and interested recipients. More flexible parameters for how these funds can be used to meet the needs of these populations will enable RIHousing to transfer resources from programs that aren't leveraging funds most effectively to those that are.
  - **Thresholds:** The Thresholds program provides capital development funding and pre-development loans to increase the supply of housing for people with serious and persistent mental illness and developmental disabilities. RIHousing releases a Request for Proposals for available funding. A Committee that includes RIHousing, BHDDH staff, and members representing community mental health, disabilities and special needs populations reviews applications and recommends awards that are then approved by RIHousing's Board of Commissioners. RIHousing subsequently disburses funds and oversees development activity. As of December 31, 2019, RIHousing is holding $288,541 in uncommitted Thresholds program funds (an additional $200,000 was appropriated in FY2020 but has not yet disbursed to RIHousing)
  - **Access to Independence:** The Access to Independence program makes grants and loans of up to $50,000 available for families and caregivers of people with developmental disabilities for supportive home modifications that enable those individuals to continue living with their families. Funds cover the costs of adaptations, including the installation of ramps, modifications of bathrooms, installation of lifts, or other equipment purchases. Program participants apply directly to BHDDH. If they are approved, RIHousing underwrites and services the loans as well as providing post-rehab inspections to ensure the work has been done according to contract. As of December 31, 2019, RIHousing is holding $1,217,335 in uncommitted Access to Independence program funds.

Rhode Island Health and Educational Building Corporation: The article requires the Rhode Island Health and Educational Building Corporation (RIHEBC) to transfer $1.0 million to the State Controller by June 30, 2021, in addition, the program provided other assistance such as $1.0 million to fund the assessment by the School Building Authority (SBA) to document the conditions of the schools and to help defray the costs associated with administering the School Building Authority Capital Fund, as well as the costs associated with financing school projects for communities.

In FY2018, RIHEBC was required to transfer $6.0 million to the State Controller. In FY2019, RIHEBC supported $737,735 in SBA personnel expenses, and in FY2020 RIHEBC is projected to provide $775,492.

RIHEBC indicates that the transfer of these funds would eliminate the Corporation's capacity to meet its mission. RIHEBC is the largest bond issuer in the State and the administrative fees charged to borrowers have enabled the Corporation to expand programs to include small loans and grants for smaller projects or borrowers who cannot access the bond market, as well as subsidizing the school construction program.

Currently, the grant and loan programs are on hold until the final outcome of the FY2021 Budget and on-going funding for the School Building Authority (SBA) are finalized. RIHEBC's revenues are derived from the administrative fee charged to not-for-profit borrowers. While RIHEBC anticipates a modest increase in revenue as communities take advantage of the new school construction bond, the increase will not be sufficient to offset the expenses of the SBA. Pursuant to current law, the fee that RIHEBC can levy on districts is limited to one tenth of one percent of the principal amount; however, the Governor recommends increasing the cap to one percent of the principal amount.

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 Budget has no net change of FTE positions from the FY2020 Budget as Enacted. The following table lists the FTE amounts by budget function:

Expense by Function	FY2020 Enacted	FY2021 Governor	*Change to Enacted*
General Government	2,406.9	2,438.9	*32.0*
Human Services	3,556.6	3,426.6	*(130.0)*
Education	3,953.4	4,228.4	*275.0*
Public Safety	3,190.0	3,222.0	*32.0*
Natural Resources	424.0	435.0	*11.0*
Transportation	755.0	800.0	*45.0*
Subtotal	**14,285.9**	**14,550.9**	***265.0***
Higher Ed. Sponsored Positions	*788.8*	*523.8*	*(265.0)*
Total FTE Positions	**15,074.7**	**15,074.7**	-

COMMUNITY SERVICE OBJECTIVES

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

The FY2020 Budget as Enacted includes $8.8 million in general revenue for CSO grant awards across 14 state agencies. The Budget recommends an appropriation of $9.0 million in general revenue in FY2021, a net increase of $235,000 from the previously enacted budget. The Budget recommends eliminating the $250,000 award to Day One and increasing or providing new awards to the following entities: Year-Up for $250,000, RI Community Food Bank by $175,000, Polaris Manufacturing Technical Assistance Program by $50,000, and Minority Entrepreneurship (formerly Urban Ventures) by $10,000.

Agency	Grant Recipient	FY2020 Enacted	FY2020 Governor	FY2021 Governor	*Change*
Administration	City Year - Whole School Whole Child Program	$130,000	$130,000	$130,000	*$0*
Executive Office of Commerce	Polaris Manufacturing Technical Assistance Program	350,000	350,000	400,000	*50,000*
Executive Office of Commerce	International Trade And Export Programming	476,200	476,200	476,200	-
Executive Office of Commerce	Minority Entrepreneurship	140,000	140,000	150,000	*10,000*
Executive Office of Commerce	East Providence Waterfront Commission	50,000	50,000	50,000	-
Labor and Training	Opportunities Industrialization Center	100,000	100,000	100,000	-
Labor and Training	Year-up	-	-	250,000	*250,000*
Secretary of State	Rhode Island Historical Society	125,000	125,000	125,000	-
Secretary of State	Newport Historical Society	18,000	18,000	18,000	-
Human Services - Elderly Affairs	Diocese of Providence - Elder Services	325,000	325,000	325,000	-
Human Services - Elderly Affairs	Alliance for Long Term Care Ombudsman Services	40,000	40,000	40,000	-
Human Services - Elderly Affairs	Elderly Housing Security	85,000	85,000	85,000	-
Human Services - Elderly Affairs	Meals on Wheels	530,000	530,000	530,000	-
Human Services - Elderly Affairs	Senior Center Support	800,000	800,000	800,000	-
Human Services - Elderly Affairs	Elderly Nutrition	50,000	50,000	50,000	-
Human Services	Coalition Against Domestic Violence	300,000	300,000	300,000	-
Human Services	Project Reach - Boys and Girls Club	250,000	250,000	-	*(250,000)*
Human Services	Day One	217,000	217,000	217,000	-
Human Services	RI Community Food Bank	175,000	175,000	350,000	*175,000*
Human Services	Crossroads Rhode Island	500,000	500,000	500,000	-
Human Services	Institute for the Study and Practice of Nonviolence	200,000	200,000	200,000	-
Human Services	Veterans' Organizations	200,000	200,000	200,000	-
Human Services	Community Action Fund	600,000	600,000	600,000	-
Education	Hasbro Children's Hospital - Hospital School	90,000	90,000	90,000	-
Education	Child Opportunity Zones	395,000	395,000	395,000	-
Office of Postsecondary Commissioner	Rhode Island College Crusade	355,000	355,000	355,000	-
Office of Postsecondary Commissioner	Best Buddies Rhode Island	75,000	75,000	75,000	-
University of Rhode Island	Small Business Development Center	350,000	350,000	350,000	-
University of Rhode Island	Special Olympics Rhode Island	50,000	50,000	50,000	-
Arts Council	WaterFire Providence	375,000	375,000	375,000	-
Historical Preservation	Fort Adam's Trust	30,000	30,000	30,000	-
Corrections	Crossroads Rhode Island	1,050,000	1,050,000	1,050,000	-
Judicial	Rhode Island Coalition Against Domestic Violence	230,000	230,000	230,000	-
Judicial	Rhode Island Legal Services	90,000	90,000	90,000	-
Environmental Management	Conservation Districts	50,000	50,000	50,000	-
Total		**$8,801,200**	**$8,801,200**	**$9,036,200**	***$235,000***

CAPITAL APPROPRIATIONS

Article 1 authorizes amounts from the Rhode Island Capital Plan (RICAP) Fund, not otherwise appropriated, to be expended during the fiscal years ending June 30, 2022, June 30, 2023, June 30, 2024, and June 30, 2025. These amounts supersede appropriations provided for FY2021 within the FY2020 Budget as Enacted.

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

Article 2: Relating to State Funds

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

- Authorizes the Board of Education to establish new restricted receipt accounts to administer funds donated in support of construction, maintenance, or general operations of Higher Education and Industry Centers in the state. The article also authorizes the Board to establish a restricted receipt account for income generated by the Rhode Island Nursing Education Center from the rental of classrooms, labs, or other facilities at the Providence Campus.
- Authorizes the Budget Officer to establish restricted receipt accounts within departments or agencies that receive funding from the Opioid Stewardship Fund and clarifies the reporting requirements for programs receiving funds. The FY2020 Budget established the Opioid Stewardship Fund, a restricted receipt account within the Department of Health. The account is funded with registration fees paid by all licensed manufacturers, distributors, and wholesalers of opioids.
- Clarifies that spending controls which require reporting and corrective action plans apply only to excess general revenue expenditures, and amends the authorization authority of the State Controller.
- Defines an appropriation as an enactment of the General Assembly authorizing the withdrawal of funds from the State Treasury, and that any enactment by the General Assembly that authorizes, specifies, or provides that funds are to be used for a particular purpose shall not be defined as an appropriation. The article also provides that additional general revenues shall be deemed appropriated in order to comply with a court order or stated emergency or to finance programs covered under the caseload estimating conference process up to the officially adopted estimates in the current fiscal year, providing that revenue are made up to the current year revenue availability as agreed to in the revenue estimating conference process.
- Authorizes the State Budget Officer to establish restricted receipt accounts within any state agency under certain conditions.
- Exempts six restricted receipt accounts from the 10.0 percent indirect cost recovery charge provisions. The proposed exemptions would apply to the Health Spending Transparency and Containment restricted receipt account within the Executive Office of Health and Human Services; the State-Control Adult Use Marijuana restricted receipt accounts in the Department of Health, the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals, the Department of Public Safety, and in the Department of Business Regulation; and the Housing Production Fund in the Executive Office of Commerce.
- Removes the requirement that any revenue received by the Rhode Island Council on the Arts from gifts, donations, contributions, or bequests be deposited as general revenue receipts. This will give the Council more authority to spend in the expenditure of such funds that are provided for a specific purpose.

FISCAL IMPACT

Regarding the State Control Adult Use Marijuana restricted receipt accounts in the Department of Health, the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals, the Department of Public Safety, and in the Department of Business Regulation; there is zero net impact to general fund revenues owing to the exemption, since all residual receipts (after expenses) lapse to the general fund. The proposed legislation to exempt the Housing Production Fund could reduce general revenues by $351,415. The changes to the Opioid Stewardship Fund have no fiscal impact.

Analyst Note: At present the Budget Office does not possess a projection on the forgone general revenue for the Health Spending Transparency and Containment account, as this account will be budgeted through a Governor's Budget Amendment. Similarly, there is no fiscal projection for any revenue received by the Rhode Island Council on the Arts from gifts, donations, contributions, or bequests because the entity last received a general revenue departmental receipts in 2014.

ANALYSIS AND BACKGROUND

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

Education Budget and Appropriations

Section 1 of this article amends RIGL 16-59-9 authorizing the Board of Education to establish new restricted receipt accounts to administer funds donated in support of construction, maintenance, or general operations of Higher Education and Industry Centers in the state. The article also authorizes the Board to establish a restricted receipt for income generated by the Rhode Island Nursing Education Center from the rental of classrooms, labs, or other facilities at the Providence Campus.

Opioid Stewardship Act

Section 2 of this article amends RIGL 21-28.10 authorizing the Budget Officer to establish restricted receipt accounts within departments or agencies that receive funding from the Opioid Stewardship Fund and clarifies the reporting requirements for programs receiving funds.

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

The registration fee is intended to pressure registrants to monitor the prescription opioids they produce and distribute and to provide accountability for the role that pharmaceuticals have had in the opioid crisis. Over 1,500 individuals have died from overdoses in Rhode Island over the last five years, and 17.5 percent of these fatal overdoses directly resulted from prescription opioids. Evidence shows that opioid use disorders frequently begin with the misuse of prescriptions. Studies estimate that approximately 80.0 percent of heroin users first misused prescription opioids.

The Opioid Stewardship Fund may only be used for opioid addiction treatment, recovery, prevention, education services, and other related programs. Fund allocations must be approved by both the Director of DOH and the Director of the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH). The FY2021 Budget authorizes the Budget Officer to establish restricted receipt accounts within any agencies that are allocated monies from the Fund. Currently, the account is solely housed within DOH. The Budget also clarifies that any agency in receipt of Opioid Stewardship funds must report annually to the Governor, the Speaker of the House, and the President of the Senate.

The Opioid Stewardship registration fees will be distributed for opioid addiction related activities in FY2021 as follows:

TOC

FY2021 Opioid Stewardship Fund Distribution

Agency/Department	Estimated Expenditures
BHDDH	$1,847,681
Rhode Island Department of Education	1,590,000
Corrections	846,628
Office of the Health Insurance Commissioner	157,365
Health	58,326
Total Expenditures	**$4,500,000**

Control of State Spending

Section 3 of this article clarifies that spending controls which require reporting and corrective action plans apply only to excess general revenue expenditures, and not funds from federal, restricted receipt, or other sources. In addition, the article narrows the authorization authority of the State Controller to stop payments by agencies on payments only involving one-time payments or are in excess of the agencies previous fiscal years' service levels.

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

Restricted Receipt Accounts

- **Legislative Appropriation Authority:** Amends state law to clarify that an appropriation is an enactment of the General Assembly authorizing the withdrawal of funds from the State Treasury, and that any enactment by the General Assembly that authorizes, specifies, or provides that funds are to be used for a particular purpose shall not be defined as an appropriation. Section 4 further clarifies that additional general revenues shall be deemed appropriated in order to comply with a court order or stated emergency or to finance programs covered under the caseload estimating conference process up to the officially adopted estimates in the current fiscal year, providing that revenue are made up to the current year revenue availability as agreed to in the revenue estimating conference process.

- **Use of Restricted Receipt or Special Revenue Funds**: Authorizes the State Budget Officer to establish restricted receipt accounts within any state agency under the following conditions:

  - To account for donated funds, funds received from non-profit entities, proceeds from multi-state settlements or from a contract or memorandum understanding with another state for a specific or one-time purpose.

  - To establish five restricted receipt accounts related to cash settlements collected or disbursed as part of the State's involvement with the Unified Health Infrastructure Project (UHIP).

    Article 2 establishes five restricted receipt accounts for the purpose of collecting and disbursing all cash settlements received by the State from any business concerning the United Health Infrastructure Project (UHIP). The article also exempts these accounts from the indirect cost recovery provisions of RIGL 35-4-27. Three of the accounts are designated "UHIP Recovery" and are housed in HealthSource RI, the Department of Human Services (DHS), and the Executive Office of Health and Human Services (EOHHS). These accounts were included in the FY2020 Budget as Enacted, although the enacted budget did not include language to establish the accounts. This portion of the article appears to correct that omission. The remaining two accounts are new accounts designated as "UHIP Recovery: Non-UHIP Expenses" and are both housed within the Department of Human Services.

    On March 15, 2019, the State announced plans to extend its contract with Deloitte, the primary developer of the UHIP system, through June 30, 2021. The extension included a $50.0 million direct cash settlement from Deloitte to the State to compensate for ongoing issues that have plagued the system since its inception. The FY2020 Budget as Enacted accounted for $33.2 million in settlement funds to offset the costs of the UHIP system, assuming that the remainder would be paid to the federal government. The FY2020 Revised recommendation includes the full $50.0 million, although $21.1 million of the recovery funds in EOHHS are housed in a unique account. According to the Budget Office, this portion of the settlement funds is set aside to be returned to the federal government. The Budget assumes that the State will receive the full $50.0 million payment from Deloitte and the State, in turn, will reimburse the federal government. As of January 31, 2020, no settlement funds have been received.

Analyst Note: The language in Article 2 creates five UHIP Recovery accounts, but the Governor's Budget includes six. A third "UHIP Recovery: Non-UHIP Expenses" account is housed in HealthSource RI, in addition to the two created in the Department of Human Services. Additionally, it is unclear why language is included in the FY2021 Budget recommendation when these changes occur in FY2020. It appears that the language should be included in the FY2020 Revised Budget, or there should be a retroactive provision to enable the creation of the accounts in FY2020.

- To convert any escrow liability account whenever such move is deemed appropriate by the both the State Controller and State Auditor General.

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

- **Indirect Cost Recovery Exemptions:** State law permits the assessment of a 10.0 percent indirect cost recovery charge on most state restricted receipt accounts in order to support the administrative overhead costs associated with the collection of funds and administration of the accounts. RIGL 35-4-27 enumerates those restricted receipts exempted from this assessment. Section 4 of this article expands the list to include the following accounts:
  - **Health Spending Transparency and Containment:** The Health Spending Transparency and Containment account within the Executive Office of Health and Human Services provides a funding stream for the Healthcare Cost Trend project with a contribution from insurers of $1 per covered life in the State as proposed in Article 20 of the FY2021 Budget. The Office of Management and Budget project revenues to be $616,617 in FY2021. The goal of the project is to increase access to affordable, high-quality health insurance coverage.
  - **Adult Use Marijuana Licensing:** Article 13 authorizes Adult Use Marijuana Licensing restricted receipt accounts proposed within the Department of Health, the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals, the Department of Public Safety, and in the Department of Business Regulation.
  - **Housing Production Fund:** The budget authorizes the creation of a restricted receipt account in the Executive Office of Commerce to contain revenues generated by the increase in the real estate conveyance tax on the portion of real estate value over $500,000. The fund will be administered by RI Housing, in consultation with a new Housing Resources Steering Committee. The funds would be used for affordable and workforce housing initiatives, including the construction of new units and incentives to municipalities.

Rhode Island Council on the Arts

Section 5 of this article amends RIGL 42-75-8, removing the requirement that any revenue received by the Rhode Island Council on the Arts from gifts, donations, contributions, or bequests be deposited as general revenue receipts. This will give the Council more authority over the expenditure of such funds that are provided for a specific purpose. The language change will authorize the Budget Officer to create restricted receipt accounts.

Analyst Note: The Rhode Island Council on the Arts received $50,000 from ArtPlace America, and the agency anticipates additional donations from other sources for the Arts & Health Initiative.

Article 3 – Relating to Government Reform and Reorganization

This article makes several changes to reform and reorganize policies, practices, and organizational structures of state government. Specifically, the article:

- Amends various licensing requirements within the Contractor's Licensing Board.
- Changes the prioritization of paid court costs related to prosecutions to ensure the sustainability of the Crime Victims Compensation Program.
- Expands the use of asset forfeiture funds to include substance use disorder programs, rather than treatment programs alone.
- Transfers administration of commercial driver license (CDL) testing from the Community College of Rhode Island (CCRI) to the Division of Motor Vehicles (DMV), effective January 1, 2021.
- Eliminates language referencing the Rhode Island Community Living and Supports Program (RICLAS) to reflect the privatization of the entire system.
- Empowers the Central Collections Unit (CCU) program within the Department of Revenue by requiring agency participation, expanding the types of organizations required to work with the unit, and permitting the CCU to assess a collection fee on non-general revenue debt collections.
- Modifies how the State may withhold State aid to satisfy delinquent debt owed by a municipality. These proposed changes are primarily intended to enhance the State's ability to recoup expenses associated with services provided by the State Police to towns that do not have a municipal police force.
- Amends the emergency police powers that are granted to out-of-State police officers when they transport detainees to hospitals for medical care in Rhode Island. Emergency police powers are currently granted for eight hours, after which Rhode Island sheriffs must take over guarding detained individuals charged with an out-of-State crime.
- Includes a joint resolution amending the State's Constitution to allow the Governor the power of a line-item veto in the appropriation of funds. The line-item veto would take effect on January 23, 2023.

FISCAL IMPACT

The article reduces general revenue expenditures by $3.3 million. The fiscal impact is summarized in the following table.

FY2021 Article 3 Expenditure Impact

Item	General Revenues
RICLAS Privatization	($2,849,338)
Aid Withholding	(443,310)
Police Transports	(57,825)
CDL Testing	10,831
Total Expenditures	**($3,339,642)**

ANALYSIS AND BACKGROUND

Licensing Changes

Article 3 makes various changes to licenses issued by the Contractors Licensing Board. In 2000, the General Assembly passed legislation requiring home inspectors in the State to be licensed. Regulations were never promulgated by the Department of Business Regulation (DBR), therefore enforcement of the license never occurred. DBR recently promulgated new rules and regulations to reflect the law and began accepting applications on January 1, 2020. The article changes the effective date to reflect the newly promulgated regulations.

Similarly, in 2012 the General Assembly passed legislation requiring licenses for Well-Drillers, Pump Installers, and Water Filtration Contractors. The regulations were not promulgated, therefore licenses were not required. DBR began accepting licenses on January 1, 2020. The article updates the "grandfather" clause to reflect the recently promulgated regulations. The article also eliminates a notary requirement as a license requirement for Well-Drillers, Pump Installers, and Water-Filtration Contractors to simplify the process for contractors.

The article eliminates bonding requirements for licensed roofing contractors. Currently licensed roofing contractors must be insured against failure to complete work, with a $100,000 minimum bond requirement. The changes established in Article 3 regarding roofing contractors are to align Rhode Island with neighboring states, which do not have bond requirements. The article simultaneously increases insurance requirements to $2.0 million (currently $1.5 million). The article would also change the continuing education requirement from ten hours per year to ten hours per two-year licensing cycle.

Crime Victims Compensation Fund

The article reprioritizes payments of court costs related to prosecutions to place a higher priority on the Crime Victims Compensation Fund. Due to the decriminalization of certain misdemeanors, there has been a decrease in court costs paid to the Crime Victim Compensation Program. As a result, the restitution payments would be prioritized over court costs. The reprioritization is expected to increase restricted receipts by $450,000 ($720,000 all funds). The table below illustrates the total appropriation into the Fund since FY2012.

Court Revenue	Amount
FY2012	$1,079,792
FY2013	858,955
FY2014	809,288
FY2015	785,967
FY2016	838,621
FY2017	584,405
FY2018	537,217
FY2019	425,746

Asset Forfeiture:

Under Rhode Island General Law, assets obtained through illegal drug operations are forfeited and distributed among state and local police, the Office of Attorney General, and the Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (BHDDH). The law currently requires the available funds from asset forfeiture within BHDDH only be used for substance abuse treatment. Article 3 adds substance abuse prevention to ensure funds can be utilized. Historically, the funds have not been spent due to the availability of federal funds for treatment programs.

Commercial Driver's License Testing

Article 3 shifts the administration of the commercial driver's license (CDL) road test from the Community College of Rhode Island (CCRI) to the Division of Motor Vehicles (DMV), effective January 1, 2021. This transfer impacts expenditures and revenues at both the DMV and CCRI. CCRI currently collects and retains $188,000 in restricted receipt revenue from a $100 CDL road test fee. Under Article 3, this revenue would instead be collected by the DMV and deposited into the general fund. Because the effective date of the article is January 1, 2021, the amount deposited as general revenues would be half of the annual revenue collected from the fee, or $94,000, in FY2021. The Budget also includes $142,331 for seven months of operations in FY2021 to provide the additional personnel and operation expenditures at the DMV required to administer the road testing. This includes $138,726 for 3.0 FTE positions, including 2.0 Senior Motor Vehicle Examiners and 1.0 Customer Service Specialist III, and $3,605 in operating expenses.

FY2021 Net Fiscal Impact - Article 3 CDL Transfer

	FY2021		
Budget Initiative	**Expenditures**	**Revenues**	**Net Fiscal Impact**
DMV - Personnel^	$138,726	-	($138,726)
DMV - Operating^	3,605	-	(3,605)
Transfer of CDL Fee Restricted Receipt Revenue to General Fund*	-	$94,000	94,000
Elimination of School Bus Training Payments to CCRI*	(37,500)	-	37,500
Total	**$104,831**	**$94,000**	**($10,831)**

^ Based on 7 months beginning December 2020 hiring date

** Half year based on January 1, 2021 effective date*

Analyst Note: The DMV has been providing CCRI with $75,000 per year for several years. The funds were originally leveraged by the College to secure a school bus driver education grant. The DMV indicates, however, that CCRI does not currently have this type of grant, and has not for some time. According to OMB and the DMV, CCRI has been notified that they will no longer be receiving these funds. The DMV explained that CCRI charges tuition for its classes and does not need the funds to support the training. The elimination of this payment is shown as $37,500 savings in FY2021. This is half of the full $75,000, presumably based on the January 1, 2021, effective date of the Article 3.

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

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

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

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

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

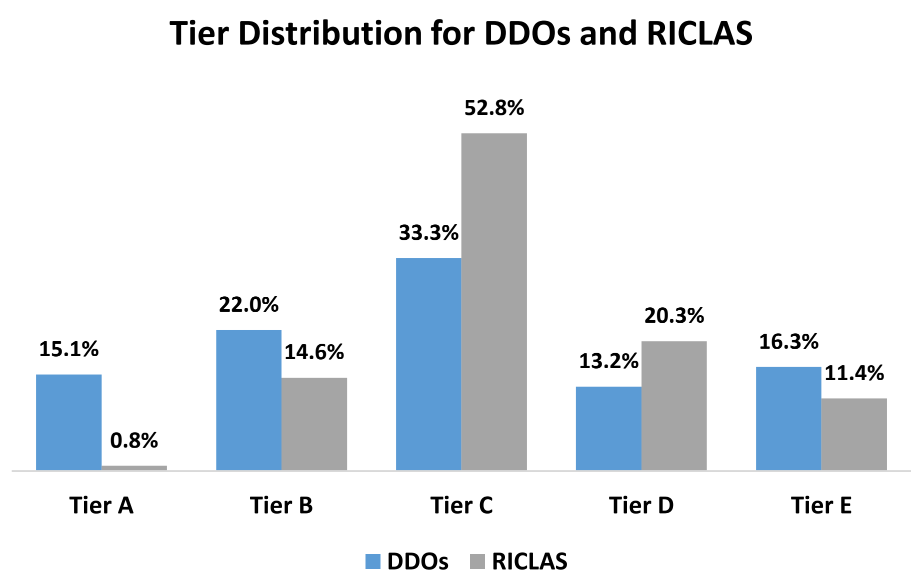
- **Oversight:** Road testing for the CDL is closely regulated and audited by USDOT. Ensuring compliance with FMCSA standards is the responsibility of the DMV. Currently, because DMV staff are not present when CDL road testing occurs, they cannot guarantee that standards are being met. In-housing the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

individual with these materials at the time of the test, allowing the test to go forward. Similarly, upon successful completion of the test, the DMV would be able to provide the license to the customer immediately.

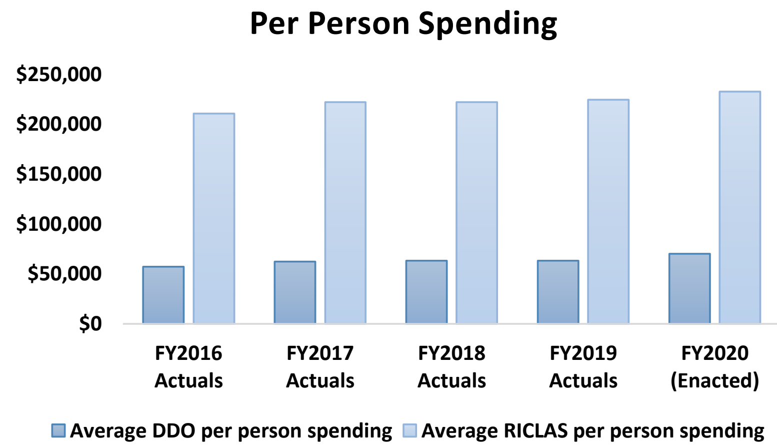
RICLAS Privatization

The article eliminates language referencing Rhode Island Community Living and Supports (RICLAS), the state-run group home system for individuals with developmental disabilities. References to the RICLAS program are eliminated to reflect the privatization of the system. RICLAS operates 25 group homes, all of which are state-owned and state run. The operations and clients of the RICLAS system would be transitioned over to private Licensed Developmental Disability Organizations (DDOs) by October 1, 2020.

There are 120 individuals receiving services under the RICLAS system and 3,386 individuals receiving services from private DDOs as of December 2019. The majority of RICLAS participants are former Ladd School patients, which closed as part of a deinstitutionalization initiative in 1994. Individuals in the RICLAS system tend to be older with more complex health statuses. Rhode Island uses the Support Intensity Scale (SIS-A) to determine the needs and related funding for individuals receiving services. The SIS-A assigns individuals a tier level, and services are recommended to individuals based on the assigned tier level. The table below displays the distribution of tiers in the DDO system and the RICLAS system.



As state employees, RICLAS personnel are eligible to receive workers compensation, retirement benefits, health insurance, longevity pay, and other benefits provided to state employees. There are 238.2 FTEs, of which 62 have statutory status, that serve 25 group homes. The Budget includes $2.3 million in general revenue to maintain the salaries and benefits of the statutory employees. This is a large factor in the per person expenditures at RICLAS.



BHDDH must meet several deadlines to ensure compliance with laws regarding the privatization of state services to meet the October 1, 2020 expected closure date. At least six months before privatization, BHDDH would be required to notify the affected Collective Bargaining Units of the intent to solicit proposals to privatize the system. At least 60 days before the request for proposals (RFP) is issued, the cost analysis and statement of work must be sent to the affected collective bargaining units. Before the RFP is issued, all individuals, their families and/or guardians must be notified of the intent to issue an RFP for potential privatization. After at least 60 days, BHDDH would evaluate all bids and award the bid to DDO providers.

The Budget includes $500,000 ($1.0 million all funds) to hire a consultant to implement the privatization of RICLAS. Net of privatization implementation costs, the Budget includes general revenue savings of $2.8 million ($9.7 million all funds) from the RICLAS privatization.

Department of Revenue Collections Unit

Article 3 expands the Department of Revenue (DOR) Central Collections Unit (CCU) pilot program.

The FY2019 Budget as Enacted established the CCU for tracking and collecting delinquent debts owed to State agencies. The unit is currently remains authorized as a pilot program, allowing DOR to implement changes and demonstrate the effectiveness of this approach to agency collections. The unit operates with 8.0 FTE positions and a budget of $899,649.

It was estimated that the program would generate $1.3 million in additional general revenue in FY2019. At the time of the November 2019 Revenue Estimating Conference (REC), the CCU had only collected $195,988. The CCU relies on agencies to voluntarily engage with it and enter into Memorandums of Understanding (MOUs) for its services. Since the pilot was established, seven agencies have entered into 13 MOUs with the CCU.

Agency	Principal Debt Referred	Principal Collected	Interest & Fees Collected	Total Collected
DLT	$3,371,094	$152,980	$1,360	$154,341
DEM	98,899	27,893	300	28,193
Ethics Commission	141,376	7,390	175	7,565
DOA	59,711	4,285	-	4,285
Human Rights	4,000	1,200	-	1,200
Board of Elections	10,250	404	-	404
Taxation	2,690,409	-	-	-
Total	**$6,375,739**	**$194,152**	**$1,835**	**$195,988**

Source: DOR - November 2019 REC

Article 3 makes the following following changes to the CCU:

- **Mandatory Participation:** Mandates that all State agencies, quasi-public agencies, boards, and commissions shall begin participating in the collections unit program no later than October 1, 2020. As noted previously, participation is currently voluntary.
- **Statutory Deadlines:** Requires that agencies must refer all eligible debts no later than January 31, 2021, unless prohibited by federal law. After February 1, 2021, participating agencies shall refer all eligible debts to the CCU within 30 days of eligibility. The CCU, however, retains the discretion to refer debt back to the agency when deemed appropriate. The article also provides the CCU with the authority to negotiate the terms of settlement agreements with debtors, including the amount of principal, interest, penalties, and fees to be paid to settle and collect.
- **Non-General Revenue Collections Fee:** Authorizes the CCU to withhold 15.0 percent of amounts collected on a debts that consist of 50.0 percent or more of non-general revenue funds. According to the Office of Management and Budget (OMB), the fee will offset the cost of CCU operations.

The Budget does not assume a fiscal impact related to these changes.

Indirect Aid Withholding

Article 3 expands the categories of State aid that may be withheld from a city or town for delinquent debt to include indirect local aid. Section 9 of the article adds 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 also shortens the amount of time a municipality has to pay a state entity before it is considered delinquent from 180 days to 90 days.

Under R.I.G.L 45-13-1.1 the State is permitted to withhold appropriated direct local aid from any municipality that is delinquent, by 180 days or more, in remitting funds it owes to a State entity. Direct local aid is comprised of several state aid programs that disburse funds based on eligibility and formula. These include the Payment in Lieu of Taxes (PILOT) program and the Distressed Communities program. Current law does not permit the State to withhold appropriated funds for the motor vehicle excise tax phase-out, a direct local aid program, or from any of the indirect local aid programs. Indirect local aid programs involve revenue collected by the State on behalf of cities and towns and disbursed based on specific criteria. These include a portion of the 5.0 percent hotel tax, the meal and beverage tax, and the public service corporation tax.

The changes included in Article 3 would permit the State to withhold indirect local aid from the Town of Exeter for the cost of services provided by the State Police to the Town. Exeter is the only municipality in Rhode Island without a police force. Law enforcement and public safety services for the town are provided by the Rhode Island State Police. The State Police attempted to formalize a services agreement with Exeter in 2007 and then again in 2014. On both occasions, the town council rejected the attempt and asserted its right not to establish a police force, arguing that the State Police are obliged to respond to public safety calls across the entire State.

In 2019, the State Police responded to 2,030 calls in Exeter and have averaged around 2,000 a year over the last three years. Similarly-sized communities, such as West Greenwich, average 80.0 percent less (see table). The Department of Public Safety's recommended annual staffing includes 1.0 Sergeant and 2.0 Troopers to meet this demand.

State Police Activity in Exeter - 2019

Arrests	Incidents	DUIs	Citations	Accidents	Calls
63	407	11	682	167	2,030

State Police Activity - Comparison

Town	Population	Size (sq. mi.)	State Police Calls 2017	State Police Calls 2018
Exeter	6,527	58.4	1,890	2,109
West Greenwich	6,231	51.3	310	487
Foster	4,606	51.9	161	156

The Budget shifts $443,310 from general revenues to restricted receipts within the Department of Public Safety to cover the costs of State Police personnel that provide services to Exeter. The Governor's Budget includes these expenses as restricted receipts, assuming that the town will reimburse the State. If Exeter does not pay this bill, the State has no other recourse to obtain funds from the town under current law because Exeter is not eligible for the direct local aid categories that may be withheld. However, the changes under Article 3 would give the State access to the $1.9 million in indirect local aid available for Exeter. This would allow the State to withhold $443,310 from the Town's indirect local aid to cover the expenses.

Transport and Guarding of Detainees

Article 3 amends the emergency police power statute so that out-of-State police officers retain their status until eight hours after a detainee is discharged from a medical facility.

From 2016 to 2018, Rhode Island area hospitals admitted 16 detainees for medical treatment who were arrested and charged with a crime in another state. Out-of-State police officers that transport and guard these individuals are granted temporary emergency police powers while in Rhode Island. The officers are required to notify the Rhode Island State Police before entering the State and are granted the emergency powers for eight hours, during which they operate under the command of the State Police. If the detainee remains in the area hospital for longer than eight hours, the responsibility of guarding the detainee falls to Rhode Island sheriffs. Article 3 would allow out-of-State officers to retain this status for the duration of a detainee's hospital stay.

In the three year-period from 2016 to 2018 there were a total of 16 incidents where these emergency powers were granted at an estimated total cost of $173,475, or an average of $57,825 per year. Consequently, the Governor's Budget assumes that this change will save the Department of Public Safety (DPS) $57,825 in general revenue personnel costs in FY2021.

Line-Item Veto

Article 3, Section 11 includes a joint resolution pursuant to Section 1 of Article XIV of the State Constitution calling for the placement of a referendum before the electorate of the state at the next statewide general election (November 3, 2020), to approve or reject the proposition of a line item veto by the Governor in the appropriation of money or other items in a bill. The resolution establishes a separate override rule for such line-item vetoes. If approved by the voters, the proposition will amend Article IX of the Rhode Island constitution and be effective January 3, 2023.

Specifically, the proposed line item veto provisions would allow future governors to address appropriations of money by:

- Approving or disapproving the entire bill in like manner as all other bills.
- Reducing or eliminating any sum or sums of money appropriated in the bill while approving other portions of the bill.
- Disapproving non-appropriation provisions of a bill such as articles, sections, and subsections.

Furthermore, to the extent an item or part of an item is disapproved by the Governor that constitutes a condition directing or redirecting an appropriation, the sum of the fund of the disapproved condition shall not be reduced but instead remain as part of the appropriated funds. This action will allow such specified appropriations to remain for other use within a state agency.

The resolution does include limitations on a governor's line item veto authority. In approving a bill in part, the Governor may not:

- Create a new word by rejecting individual letters in the words.
- Create a new sentence by combing parts or two or more sentences.

Each vetoed item could be reconsidered by the General Assembly, but done so separately and individually, under the existing veto timeline, except that, the resolution establishes a separate override rule for items subject to the governor's line-item veto. In such cases, each separate override will require an affirmative vote of two-thirds by each chamber rather than the normal override provision of three-fifths of each chamber. This will require an additional five members of the House of Representatives and an additional two members of the Senate needed to override each line item vetoed item.

Chamber	Members	Constitutional Veto 3/5's Override	Line Item Veto 2/3's Override
Representatives	75	45	50
Senate	38	23	25

Since 2015, forty-four states provide governors some form of line item veto. Besides Rhode Island, the other five states that do not possess this line item veto are Indiana, Nevada, New Hampshire, North Carolina, and Vermont. In these six states, the governor may only veto the entire bill. The following table illustrates the authorized allowances of the line item veto amongst the fifty states.

Gubernatorial Line Item Veto Authority

States	Funding for Particular Line Item	$'s for Entire Program or Agency	Language in Appropriation	Language in Footnote or Following Appropriation Explaining How $'s to be Spent	Proviso or Contingency Language on Expenditure of Appropriation	Entire Bill Only	Reduce Amounts or Subsitute Amounts for Legislatre to Consider	Other
Alabama	X	-	-	-	-	-	S*	-
Alaska	X	X	X*	X*	X*	-	R	-
Arizona	X	X	-	X*	X*	-	-	-
Arkansas	X	X	-	-	-	-	-	-
California	X	X	X*	X*	X*	-	R	-
Colorado	X	X	-	X*	X*	-	-	-
Connecticut	X	X	-	-	-	-	-	-
Delaware	X	X	-	-	-	-	-	-
Florida	X	-	-	-	X*	-	-	-
Georgia	X	X	X	X	X	-	-	-
Hawaii	X	-	-	-	-	-	-	-
Idaho	X	-	-	-	-	-	-	-
Illnois	X	X	-	-	-	-	R*	-
Indiana						X		
Iowa	X	X	X	X	X			X*
Kansas	X	-	-	-	X	-	-	-
Kentucky	X	X	X	-	X	-	-	-
Louisiana	X*	X	X	X	X	-	-	-
Maine	X*	X	-	-	-	-	R*	X*
Maryland	-	-	-	-	-	-	-	-
Massachusetts	X	X	X	X	X	-	R	-
Michigan	X	X	X	X	-	-	-	-
Minnesota	X	-	-	-	-	-	-	-
Mississippi	X	X	X	X	X	-	-	-
Missouri	X	X	X*	-	-	-	R	-
Montana	X*	X	X*	-	-	-	-	-
Nebraska	X	X	X*	-	-	-	R	-
Nevada						X		
New Hampshire						X		
New Jersey	X	X	X	X	X	-	R	-
New Mexico	X	X	X	X	X	-	-	-
New York	X	X	X	X	X	-	-	X*
North Carolina						X		
North Dakota	X	X	X	X	X	-	-	-
Ohio	X	X	X	X	X	-	-	-
Oklahoma	X	X	X	X	X	-	-	-
Oregon	X	-	-	-	-	-	-	-
Pennsylvania	X	X	-	-	-	-	-	-
Rhode Island						X		
South Carolina	X	X	X	X	X	-	-	-
South Dakota	X	-	-	-	-	-	-	-
Tennessee	X	X	-	-	-	-	R	-
Texas	X	X	-	-	X*	-	-	X*
Utah	X	-	*	*	*	-	-	-
Vermont						X		
Virginia	X	X	X*	X*	X*	-	R	-
Washington	X	X	X	X	X	-	-	-
West Virginia	X	X	X	-	-	-	R	-
Wisconsin	X	X	X	-	X	-	R* S*	-
Wyoming	X	X	-	X	X	-	-	-

Source: National Conference of State Legislatures

Items with an X indicate what types of line item veto ability a governor has in each state.

Items with an astrisk delineate multiple variations or limits to a governor's line item veto.

R means reduce amounts, S means substitute amounts for legislature to consider.

Article 4: Relating to Debt Management Act Joint Resolutions

This article authorizes the issuance of $118.8 million in certificates of participation (COPs) for multiple state projects within the Department of Administration; the Department of Children, Youth, and Families; the Executive Office of Health and Human Services; and, the Department of Public Safety. The article also authorizes the issuance of $64.2 million in Motor Fuel Tax Revenue Bonds for the Department of Transportation.

FISCAL IMPACT

The article authorizes the issuance of $118.8 million in certificates of participation (COPs) for multiple state projects and $64.2 million in Motor Fuel Tax Revenue Bonds to provide state match funding for multiple infrastructure projects planned by the Department of Transportation.

Proposed Debt Authorizations

Revenue Bonds	Department	Principal	Interest	Total Debt	Annual Debt Service	Term of Loan (years)
Enterprise Resource Planning System	DOA	$54.8	$6.2	$61.0	$8.7	7.0
Child Welfare Info. System Replacement	DCYF	17.0	2.7	19.7	2.0	10.0
Eleanor Slater Hospital- Regan Building	EOHHS	12.0	2.8	14.8	1.0	15.0
Southern Barracks	DPS	35.0	8.2	43.2	2.9	15.0
Transportation Projects*	DOT	64.2	18.2	82.4	n/a	15.0
Total		**$183.0**	**$38.1**	**$221.1**		

** Annual Debt Service for Transportation Projects not yet known*

$ in millions. Totals may vary due to rounding.

ANALYSIS AND BACKGROUND

Enterprise Resource Planning System (ERP) ($54.8 million)

Section 2 authorizes the issuance of $54.8 million in certificates of participation (COPs) to finance a portion of the modernization of the State's decades-old legacy systems for human resources, payroll, grants management, and financial data systems. The current system is outdated, leaving decision makers unable to receive accurate information in a timely manner. The current systems are susceptible to various single points of failure and are at-risk for security breaches. The new system, referred to as the Enterprise Resource Planning System or ERP, will have a total projected cost of $73.7 million. An additional $18.9 million will be financed through the Information Technology internal service fund. The resolution proposes that the $54.8 million in COPs will be disbursed in two issuances, each with a seven-year term at an interest rate of 2.75 percent. The first issuance of $36.3 million will occur in FY2021 with a seven-year term. The second disbursement of $18.5 million will be issued in FY2023 and will also have a seven-year term. The total aggregate authorized debt service costs are not expected to exceed $61.0 million.

Rhode Island Children's Information System (RICHIST) ($17.0 million)

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

The total funding of $28.0 million would be utilized over three years, FY2021 through FY2023, as follows:

Rhode Island Children's Information System	FY2021	FY2022	FY2023	Total
Certificates of Participation	$2,000,000	$10,000,000	$5,000,000	$17,000,000
Federal Funds	1,300,000	6,500,000	3,200,000	11,000,000
Total	**$3,300,000**	**$16,500,000**	**$8,200,000**	**$28,000,000**

Analyst Note: The Governor's recommendation for FY2021 does not include the $1.3 million in federal funds planned for this project. According to the Budget Office, the Governor plans to submit an amendment to include the federal funding within the Department of Children, Youth, and Families.

RICHIST was developed in 1998 and serves as a registry for all confidential case, financial, provider, and staff management information. RICHIST also generates the caseload and financial data which the Department reports to the Governor, General Assembly, and the federal government. While Rhode Island was a national leader when RICHIST was first developed, it now relies on antiquated technology that has not adapted well to changes over the last 22 years. Most significantly, the existing RICHIST system does not enable easy mobility for staff in the field which inhibits the Department's ability to operate efficiently.

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

The annual general revenue payment on the COPs authorized by this article would be approximately $1.9 million, based on an assumed interest rate of 2.75 percent over ten years. These payments would be budgeted within the Department of Administration, although the Governor's Budget does not include funding in FY2021. According to the Budget Office, due to the anticipated timeline for issuance, the Budget assumes that the first payment would be made in FY2022 and would be made annually through FY2031. Including interest, the total cost to the State will be $19.7 million at the end of the ten-year period.

Eleanor Slater Hospital ($12.0 million)

This article authorizes the issuance of $12.0 million in certificates of participation (COPs) to support an ongoing reorganization project at Eleanor Slater Hospital (ESH), the state-run psychiatric and long-term care hospital. The total estimated cost of the project is $61.9 million, including $27.9 million from the Rhode Island Capital Plan Fund and $22.0 million in previously authorized in COPs.

Hospital renovations began during FY2018 after the Hospital was denied initial accreditation by the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO) due to significant ligature risks throughout several buildings. This accreditation allows ESH to bill Medicare, Medicaid, and other insurers approximately $55.0 million annually. The JCAHO reinstated accreditation after the hospital submitted a plan to rehabilitate several buildings to meet federal standards, increasing the estimated project cost from $29.9 to $61.9 million. The reinstatement is contingent upon the hospital's ability to make these necessary improvements; failure to do so could result in the permanent loss of accreditation.

Article 4 authorizes the issuance of COPs to fund the additional $12.0 million required for project completion. The FY2021 Budget as Enacted includes a debt service payment for the reorganization project of $1.9 million within DOA. Repayment of the COPs would be funded through general revenues.

Southern Barracks ($35.0 million)

In 2018, the Department of Public Safety (DPS) initiated a comprehensive planning review and feasibility study related to the Rhode Island State Police (RISP) barracks facilities located in Wickford, Hope Valley, and Portsmouth. The review and study were completed in the fall of 2019, and were coordinated by a master planning committee consisting of members of the RISP, Department of Administration (DOA)'s Division of Capital Asset Management and Maintenance (DCAMM), the Office of Management and Budget, and the architectural and engineering design firm Kaestle Boos Associates.

The committee found that the existing three barracks, which were built in the 1930s, do not meet the 21st century public safety and policing requirements of the State Police. Specifically, the current barracks are no longer located along main thoroughfares, are in poor condition, are expensive to operate and maintain, and are not configured with a modern police facility layout. It was determined that it is not feasible to renovate the existing structures; and therefore, it is necessary to build a new, combined barracks in the southern part of the state. The preferred location, which remains subject to Federal Highway Administration and RI Department of Transportation approval, is a parcel of land located in West Greenwich off Route 95 at Exit 7 (New London Turnpike) between the northbound off ramp and the Park & Ride lot.

Transportation Projects ($64.2 million)

The article authorizes the issuance of $64.2 million in Motor Fuel Revenue Bonds for the maintenance and repair of the Henderson Bridge in East Providence, and other bridge and highway projects as identified in the State Transportation Improvement Program (STIP). The majority of these funds will be used as a state match for newly secured federal funds, any remaining funding will be used for the 1-95 Northbound Viaduct Project.

In February 2019 and again in December 2019, Senator Reed's office announced that the State would be receiving additional federal funds for the replacement of the Henderson Bridge, the Cranston Huntington Viaduct Bridge, and other highway improvements. The additional federal funds require a 20.0 percent state match.

In FY2020, the General Assembly approved the issuance of $200.0 million in GARVEE bonds for the 1-95 Northbound Viaduct Project. The total project cost was estimated to be $250.0 million with a 10.0 percent state match. In July 2019, the Department of Transportation was awarded an additional $60.0 million from a federal discretionary INFRA grant. These additional funds require that the state match for the project be increased from 10.0 percent to 20.0 percent, requiring and additional $25.0 million.

Debt service for the bonds is not anticipated to exceed $82.4 million over a 15 year term and payments will be supported by $0.02 of the gasoline tax.

Article 5: Relating to Capital Development Program

This article submits a total of $268.8 million in ballot referenda to Rhode Island voters for their approval. Proposed as three questions on the November ballot, the following projects are included.

Article 5: Relating to Capital Development Program

November 2020 Bond Referenda		Amount
Higher Education Facilities Bond		$117.3
University of Rhode Island Fine Arts Center	*$57.3*	
Rhode Island College Clarke Science Building Renovation	*38.0*	
Community College of Rhode Island Renovation and Modernization	*12.0*	
Center for Ocean Innovation	*10.0*	
Beach, Clean Water, and Green Bond		$64.0
State Beaches, Parks, and Campgrounds	*35.0*	
Local Recreation Projects	*4.0*	
Natural and Working Lands	*3.0*	
Clean Water and Drinking Water	*15.0*	
Municipal Resiliency	*7.0*	
Housing and Infrastructure Bond		$87.5
Housing Opportunity	*25.0*	
Port of Davisville Infrastructure at Quonset	*20.0*	
Industrial Site Development	*21.5*	
Early Childhood Care and Education Capital Fund	*15.0*	
Cultural Arts and the Economy Grant Program	*5.0*	
State Preservation Grants Program	*1.0*	
Total		**$268.8**

$ in millions.

FISCAL IMPACT

The article permits $268.8 million in bond referenda to be placed on the November 2020 ballot including, $117.3 million in bonds for higher education, $64.0 million in bonds for the Green Economy, and $87.5 million for housing and infrastructure. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $21.6 million. Total debt service over the life of the bonds would be $431.4 million, including $162.6 million in interest payments.

ANALYSIS AND BACKGROUND

Higher Education Facilities Bond

The Budget includes a $117.3 million general obligation bond authorization be placed on the November 2020 ballot for higher education facilities. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $9.4 million. Total debt service over a 20-year term would be $188.2 million, including $70.9 million in interest. The bond proceeds would be allocated as follows:

- **University of Rhode Island Fine Arts Center ($57.3 million):** The Budget includes a $57.3 million bond referendum to fund repairs and construction of new facilities in support of musical, theatrical, visual, and graphic arts disciplines. While phase 1A of the project was completed with $14.8 million in Rhode Island Capital Plan (RICAP) funds, the general obligation bond funds will be used to support phase 1B of the project. Phase 1A focused on the building envelope and mechanical systems for five of the 10 pods of the building. Phase 1B involves demolishing the other five pods, replacing outdated spaces with a new building to provide needed academic space, and connecting the performance spaces improved through phase 1A.

Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $4.6 million. Total debt service over a 20-year term would be $92.0 million, including $34.7 million in interest payments.

- **Rhode Island College Clarke Science Building Renovation ($38.0 million):** The Budget provides a $38.0 million bond referendum to fund the renovation of the Clarke Science Building which houses the School of Chemistry and Physics. The project will improve science and technology laboratories that support degree programs critical to the College's mission of statewide workforce development.

  Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $3.0 million. Total debt service over a 20-year term would be $61.0 million, including $23.0 million in interest payments.

- **Community College of Rhode Island Renovation and Modernization ($12.0 million):** The Budget includes a $12.0 million bond referendum to fund the restoration and enhancement of student support spaces, infrastructure improvements, and technology at the four campuses. This bond will be used to modernize classrooms, labs, and student support spaces; upgrade student services and common areas; provide core building infrastructure upgrades; expand campus technology; improve energy efficiency; fund Americans with Disabilities (ADA) upgrades; and, improve campus traffic flow.

  Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $962,911. Total debt service over a 20-year term would be $19.3 million, including $7.3 million in interest payments.

- **Center for Oceanic Innovation ($10.0 million):** The Budget includes a $10.0 million bond referendum to fund the development of one or more Centers for Ocean Innovation. The project includes the development of undersea and maritime technologies to create a "Smart Bay". Of the total, $6.0 million will be used to rehabilitate the bulkhead, the dock, and the boat launch; $1.0 million is for scientific sensors for research; and $3.0 million is for an education and research facility. The total building cost is projected at $4.4 million with $1.4 million being leveraged from private sources.

  Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $802,426. Total debt service over a 20-year term would be $16.0 million, including $6.0 million in interest payments.

Beach, Clean Water, and Green Bond

The Budget includes a $64.0 million general obligation bond authorization be placed on the November 2020 ballot for environmental and recreational purposes. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $5.1 million. Total debt service over a 20-year term would be $102.7 million, including $38.7 million in interest payments. The bond proceeds would be allocated as follows:

- **State Beaches, Parks, and Campgrounds ($35.0 million):** Provides funding for major capital improvements to state beaches, parks, and campgrounds. The projects may include a new facility at Goddard Park beach; upgraded facilities at Roger Wheeler State beach, Scarborough State beach, Misquamicut State beach, and Brenton Point; and, improvements to various campgrounds.

- **Local Recreation Projects ($4.0 million):** Provides funding for matching grants for up to 80.0 percent of project costs associated with municipalities acquiring, developing, or rehabilitating local recreation facilities. 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. Voters approved $2.0 million in general obligation bonds in 2016 and $5.0 million in 2018. According to DEM, applications for the $5.0 million approved in FY2018 total over $13.0 million in local projects. The new bond proceeds would be used to continue the program in FY2021. Since the inception of the program in 1988, DEM has awarded 519 grants totaling $73.0 million worth of investments in all of Rhode Island's 39 cities and towns.

- **Natural and Working Lands ($3.0 million):** Provides funding to protect working forest and farm lands across the State including the purchase of forest conservation easements, and the purchase of developmental rights by the Agricultural Lands Preservation Commission and the State Farmland Access Program.
- **Clean Water and Drinking Water ($15.0 million):** Provides funding for clean water and drinking water infrastructure improvements. Clean water projects include wastewater collection and treatment upgrades, stormwater resilience improvements, combined sewer overflow projects, water pollution abatement projects, and other water quality protection initiatives. Drinking water projects include construction of and improvements to water supply, treatment, and distribution infrastructure.

  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. The revolving funds were last capitalized with state funds from the proceeds of the 2018 general obligation bond for $6.1 million. According to RIIB, the investment of $15.0 million is projected to leverage approximately $75.0 million in federal funds.
- **Municipal Resiliency ($7.0 million):** Provides funding for matching grants for up to 75.0 percent of project costs to municipalities for restoring and/or improving the resiliency of infrastructure and vulnerable coastal habitats, and for restoring river and stream floodplains.

Analyst Note: The Budget includes $17.9 million in fund transfers from the Rhode Island Infrastructure Bank in FY2020 and FY2021. If the proposed transfers are enacted, RIIB will have lost $24.5 million of infrastructure funds over four fiscal years. RIIB uses its operating capital to develop new programs and meet special infrastructure financing needs. For example, $2.0 million of operating capital was committed to the inaugural round of the Municipal Resiliency Program, which assists municipalities in developing resiliency plans and investing in projects to protect against the impact of climate change.

Housing and Infrastructure

The Budget includes an $87.5 million general obligation bond authorization be placed on the November 2020 ballot for housing, facility improvements, and infrastructure projects. Assuming full issuance in bond year 1 and 5.0 percent interest, debt service payments begin in FY2022 at $7.0 million. Total debt service over a 20-year term would be $140.4 million, including $52.9 million in interest payments. The bond proceeds would be allocated as follows:

- **Housing Opportunity ($25.0 million):** Provides funding to support the development of affordable and workforce housing in Rhode Island. This financing is part of a larger set of affordable housing initiatives in the Budget, including increasing the real estate conveyance tax and directing the new revenue into a dedicated Housing Production Fund (HPF). The Housing Opportunity bond funds will also be held in and distributed out of the HPF. The programming of these funds will be overseen by a new Housing Resources Coordinating Council.
- **Port of Davisville Infrastructure at Quonset ($20.0 million):** The Budget provides $20.0 million through a general obligation bond referendum for infrastructure modernization and repairs at the Port, including the construction of a new pier at Terminal Five, the rehabilitation of Pier One, and dredging

around the main piers. These projects will allow for the Port of Davisville to support the existing cargo and auto export business onto the smaller Pier 1 and onto a new pier to be located south of Pier 1. This will allow the space on the larger pier to accommodate the cargo and logistics staging for the offshore wind business. This work follows the $205.0 million Port of Davisville master plan and is in conjunction with the ongoing capital infrastructure general obligation bond funded projects approved in the FY2017 Budget as Enacted.

- **Industrial Site Development ($21.5 million):** Provides funds to increase the amount of vetted, permitted, and utility-ready sites available for economic development projects across Rhode Island. This bond measure is part of a larger set of site-readiness initiatives in the Budget. Article 11 establishes a new Site Readiness Program to oversee and coordinate investment in these "pad-ready" sites and help municipalities overcome barriers to creating them. The Budget also authorizes the Quonset Development Corporation (QDC) to act in the place of CommerceRI under the program for those municipalities that request the QDC's services and expertise related to site development

- **Early Childhood Care and Education Capital Fund ($15.0 million):** Provides funding for physical improvements to and the development of licensed early childhood care and education facilities. According to the Office of Management and Budget and the Department of Human Services:
  - $12.0 million of the bond proceeds will be used to develop new spaces. This funding is expected to support eight to 12 projects, creating capacity for as many as 1,500 children.
  - $2.0 million is for small grants to address urgent health and safety concerns, make quality improvement, and reconfigure spaces to increase capacity and serve priority populations such as infants and toddlers.
  - $1.0 million will provide technical assistance and training to prepare organizations for success, fund administration, and monitor compliance.

Analyst Note: Pursuant to the Rhode Island Early Childhood Care and Education Capital Fund, proposed in Article 10, an "eligible facility" is a building, structure, or site that is, or will be, owned, leased, or otherwise used by an eligible organization licensed by DHS to provide child care. Municipally-owned buildings are only eligible if there is a single-purpose space for licensed early childhood care.

- **Cultural Arts and the Economy Grant Program ($5.0 million):** Provides funding to continue the Cultural Arts and the Economy Grant program administered by the Rhode Island State Council on the Arts (RISCA) for capital improvements, preservation, and renovation of public and nonprofit performance centers, museums, and cultural art centers.
  - **Trinity Repertory Company ($2.5 million):** For the Lederer Theater and the Pell Chafee Performance Centers in Providence.
  - **Rhode Island Philharmonic ($1.5 million):** For the Carter Center for Music Education and Performance in East Providence.
  - **Other Nonprofit Cultural Organizations ($1.0 million):** These funds will be allocated by RISCA for 1:1 matching grants to nonprofit cultural organizations that lease or own their performance space and for program administration costs at RISCA.

- **State Preservation Grants Program ($1.0 million):** Funds will be distributed to cities, towns, and nonprofits organizations to preserve, renovate, and improve public and nonprofit historic sites, museums, and cultural art centers in historic structures. The funding will be administered by the Rhode Island Historical Preservation and Heritage Commission. In November 2014, voters approved $5.0 million to recapitalize the State Preservation Grant Program. The Commission is currently in the third round of awards supporting 30 statewide projects in FY2019 and FY2020.

Article 6: Relating to Fees

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

- **Special Data Analysis Request Fee:** Authorizes the Director of the Department of Health (DOH) to establish fees in response to requests for processing special data analysis.
- **EMS Professional Licensing Fee:** Requires Emergency Medical Services (EMS) personnel working for cities and towns, volunteer, and non-profit organizations to pay the EMS professional licensing fees.
- **Misclassification of Employees:** Increases the fee charged to employers for the first offense of a misclassification of an employee from no less than $1,500 and no greater than $3,000 to no less than $3,000 and no greater than $4,000. This fee can be charged for each employee that the employer misclassifies.
- **General Permit and Inspection Fees:** Increases general permit fees based on the cost of construction for new buildings, additions, alterations, structures, etc. The article also increases the State Fire Marshal's Office inspection fee from $100 to $250 per inspection and clarifies that this fee shall constitute payment for the initial inspection and any required subsequent inspections.
- **Explosives Permit Fees:** Establishes a standard fee of $100 per year for an explosives manufacturer's/dealer's/possessor's permit and establishes a user's fee of $50 per project. The article also removes the non-refundable $25 fee for the processing and issuance of apprentice permits.
- **Late Fee – License and Registration Renewal:** Establishes a $15.00 late fee that is paid, in addition to applicable renewal fees, for the late renewal of an operator's license, a chauffer's license, or a commercial driver's license. The article also establishes a $15.00 fee, in additional to applicable renewal fees, for the late renewal of a motor vehicle registration.
- **Driving Records – Online Subscription Fee:** Increases the fee for driving records obtained through an online subscription service from $16.00 to $20.00.
- **Registration Reinstatement Fee:** Establishes a $100 fee for the reinstatement of the registration or certificate for a motor vehicle if the registration was suspended pursuant to RIGL 31-8-4(a), 31-38-3, 31-38-4, or 31-47.1-3.
- **Substance Abuse Education Fee:** Establishes a $250 substance abuse education fee for any person found guilty of driving under the influence or for a violation of refusal to submit to a chemical test. This fee will be allocated to BHDDH to support substance abuse programs.
- **Administrative Penalty - Payment of Debts by Contractors:** Amends RIGL 37-13, "Labor and Payment of Debts of Contractors", to establish an administrative penalty to be paid by an employer who enters into a settlement with the Department of Labor and Training to administratively resolve any labor and payment violations pursuant to this chapter, rather than have a formal administrative hearing. The administrative penalty shall be no less than two times the total amount agreed to be due by the employer and no greater than three times the amount.
- **Hearings - Payment of Debts by Contractors:** Article 6 amends RIGL 37-13 to increase the number of days the Director of Labor and Training, or a designee, is required to hold a hearing after issuing an order from 10 days to 30 days. The Article also increases the number of days that the Director of Labor and Training, or a designee, has to make a determination and enter an order about the hearing from 10 days to 30 days after the hearing. Article 6 further adjusts the payment of a civil penalty to include an amount of no less than two times the amount found to be due and no greater than three times the amount. Under current law the civil penalty does not have a minimum.

- **Public Utilities and Carriers - Utility Service Restoration Act:** Adds a new chapter, RIGL 39-2.3, "Utility Service Restoration Act", that requires all investor-owned gas and electric companies to file an annual emergency response plan. A fine of $500 per day may be issued to any company failing to file the required emergency response plan.
- **Public Utilities and Carriers - Penalties for Violations:** Increases the fine paid by any officer, agent, or employee of a public utility, who fails to comply with the provisions in Chapters 1-5 or RIGL 39-4, from $100 to $1,000. The Article also requires that any public utility who fails to comply with Chapters 1-5 of RIGL 39-4, as determined by the Public Utilities Commission, to forfeit a sum not exceeding the greater of $200,000 or 0.02 percent of the annual intrastate gross operating revenue of the public utility.
- **Sheriff Training Academy Application Fee:** Implements a $50 application fee for applicants to the sheriffs' training academy. The Director of Public Safety may waive this fee if it would impose a hardship upon the applicant.

FISCAL IMPACT

The Budget includes an additional $9.4 million in revenues related to the fees implemented and increased in Article 6.

Article 6:	Current Fee	Proposed Fee	Revenues
DOH Data Request Fee	-	$140/hr	$438,900
EMT Licensing Fee	-	$80 - $120	333,600
Misclassification of Employees	$1,500 - $3,000	$3,000 - $4,000	4,200,000
General Permit Fee	$25 - $3,033+	$35 - $3,292+	540,000
State Fire Marshal Inspection Fee	$100	$250	13,950
License Renewal Late Fee	-	$15	1,136,025
Online Driving Records Fee	$16	$20	660,000
Suspended Registration Inspection	-	$100	1,832,100
Substance Abuse Education Fee	-	$250	220,016
Sheriff Training Academy Fee	-	$50	13,000
Total			**$9,387,591**

ANALYSIS AND BACKGROUND

Center for Health Data Analysis (CHDA)

The Budget establishes a fee for data requests that require the CDHA to analyze, calculate, and/or interpret data. The fee would be set by the Department of Health (DOH) through rules and regulations and is expected to generate $438,900 in general revenue annually. Approximately half of the funds generated would be directed to CHDA to support the management of data systems.

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

Emergency Medical Technician Licensing Fees

The Budget eliminates fee exceptions for emergency medical technicians (EMTs) who provide services for cities or towns, and non-profit organization volunteers. Currently, there are 3,069 EMT professionals that are exempt. License fees range from $80 to $120 annually. The elimination of the exemptions is expected to generate $333,600 in general revenues for FY2021.

Misclassification of Employees

Article 6 increases the civil penalty for misclassified workers, for a first time offense, from no less than $1,500 and no greater than $3,000 to no less than $3,000 and no greater than $4,000. This fee can be charged for each employee that is misclassified. The fee for subsequent offenses remains $5,000 per misclassified employee. When deciding on a civil penalty, the Director of the Department of Labor and Training, or a designee, takes into consideration the size of the employer's business and whether the violation was an innocent mistake or willful. In 2019, there were 92 misclassification cases identified, of these cases 23 were finalized. Misclassification cases can often span multiple fiscal years.

State Fire Marshal Fees

The Budget standardizes explosives permit fees at $100. Currently, the fees vary based on whether the applicant is a manufacturer, dealer, or possessor. User permits would be $50 per project, which are currently based on the estimated project cost. In addition, the Budget eliminates the $25 blasting apprenticeship permit fee. The changes in explosive fees were found to have a minimal impact due to a low number of applications, therefore revenue changes were not included in the Budget.

The Budget also includes a number of fee changes within the Office of the State Fire Marshal for plan review general permit fees and inspection fees. The plan review fees are required for the construction of new buildings, additions, alterations, and structures and are based on the total cost of construction. The increase in fees is expected to generate $540,852 in additional general revenues.

The Budget increases the fire inspection fee from $100 to $250 and eliminates the additional fee for reinspections. The changes to fire inspection fees are expected to increase general revenues by $13,950.

License and Registration Renewal Fee

The Division of Motor Vehicles charges various amounts for the both the initial and the renewal fees related registering motor vehicles and obtaining the various classifications of driver's licenses. The Division, however, does not currently charge a late fee for the renewals of registrations or licenses. Connecticut charges a $10 fee for a late renewal of a registration and $25 for a driver's license. Massachusetts does not charge late fees.

According to the Division of Motor Vehicles, there were 50,497 late license renewals and 61,702 late registration renewals in FY2019. The Office of Management and Budget estimated that the imposition of a late fee would reduce these numbers by 10.0 percent. Applying the $15 fee would yield $1.5 million in revenue. This estimate was then reduced to $1.1 million taking into consideration the October 1 implementation date.

Driving Records – Online Subscription Fee

The Division of Motor Vehicle charges a fee of $16 to provide a complete driver's record. A record consists of a complete list of all accidents an individual has been involved in and all driving violation convictions. The article increases the driving record request fee from $16 to $20 if the request is made through an online subscription service.

According to the Division of Motor Vehicles over 90.0 percent of driving records are purchased via RI.gov subscribers. RI.gov is the State's information technology internet portal and companies that regularly use its services become subscribers by entering into a memorandum of understanding (MOU) with the State. Insurance companies and data brokers are the primary purchasers of driving records and they typically buy them in bulk as subscribers to RI.gov.

Less than 10.0 percent of all driving record purchasers are individuals who buy either online or in person. An individual does not have to be a subscriber to RI.gov to obtain a record online, and therefore, is not affected by the fee increase in Article 6.

Suspended Registration Inspection Fee

The penalty for operating a vehicle without a valid inspection sticker is a fine of $85 and, under RIGL 31-38-2 and RIGL 31-38-3, may also include suspension of the vehicle's registration. The Division of Motor Vehicles (DMV), however, has generally refrained from imposing the latter penalty. Historically, the DMV has not been able to accurately determine all of the non-compliant vehicles at any one point in time. Violations were usually only discovered during routine traffic stops. Prior to July 1, 2018, the penalty, had it been enforced, was a $250 fee registration reinstatement fee. Because the suspension penalty was never enforced, this fee was never collected.

Article 8 of the FY2018 Budget as Enacted eliminated the $250 reinstatement fee. With the advent of the Division's new IT system in 2017, the DMV was able to determine the status of vehicle inspections uniformly and accurately. As the DMV prepared to implement the reinstatement fee in the fall of 2017 and notice of the policy change was communicated, a public backlash materialized. The Governor placed a moratorium on the fee's enforcement and the General Assembly indicated it would address the issue in the 2018 session.

Article 6 reestablishes the fee. The article sets the fee amount at $100, $150 less than the original $250. According to the DMV, the Division does not immediately suspend a registration for not having a valid inspection sticker. The DMV notifies individuals 45 days after an inspection sticker expires that they have 20 more days to have their vehicle successfully inspected before DMV suspends the registration.

In FY2019, there were 18,321 inspection suspension reinstatements. The Office of Management and Budget used this figure to calculate the $1.8 million revenue estimate for this fee in FY2021. Expenditures related to this proposal include $143,140 in personnel costs and $14,960 in IT programming costs. The DMV recommends 2.0 new FTE positions that include 1.0 Motor Vehicle Appeals Officer and 1.0 Adjudication Service Representative. The staff will be assigned to handle an anticipated increase in appeal hearings related to the reestablishment of the fee.

Analyst Note: Typically, the DMV requires a January 1 start date for program changes enacted in the Budget. This allows for the hiring and training of staff and for DMV to make the changes to its IT systems required for implementation of the new program. The revenue estimate for Section 8 is based on a July 1, 2020, implementation date. In addition, the revenue estimate does not appear to take into account a reduction in the number of reinstatements that might reasonably be expected with the threat of a $100 fee. Based on these two issues the revenue estimate may be overstated.

Substance Abuse Education Fee

The Budget establishes a $250 substance abuse education fee applicable to anyone convicted of driving under the influence or failure to submit to a breathalyzer. Expected revenues from the fee are estimated at $220,016 for FY2021. Funds would be appropriated to the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) for substance abuse prevention programs and student assistance programs. The fee would take effect on January 1, 2021.

Payment of Debts by Contractors

Section 10 amends RIGL 37-13 to establish an administrative penalty for any employer who enters into a settlement with the Department of Labor and Training to administratively resolve any labor and payment violations pursuant to this chapter, rather than have a formal administrative hearing. The administrative penalty shall be no less than two times the total amount agreed to be due by the employer and no greater than three times the amount.

The Article also amends RIGL 37-13 to increase the number of days the Director of Labor and Training, or a designee, has to hold a hearing after issuing an order from 10 days to 30 days. Pursuant to RIGL 37-13, any contractor who does not comply with the provisions of this chapter will be issued a hearing. The Article also increases the number of days that the Director of Labor and Training, or a designee, has to make a determination and enter an order about the hearing from 10 days to 30 days after the hearing.

Article 6 further adjusts the payment of a civil penalty to include an amount of no less than two times the amount found to be due and no greater than three times the amount. Under current law, the civil penalty does not have a minimum. If the order determined at the end of the hearing requires the contractor to make a payment of wages found to be due, the order must also require a civil penalty in an amount up to three times the total amount found to be due.

Public Utilities and Carriers:

- **Utility Service Restoration Act:** Section 12 adds a new chapter, RIGL 39-2.3, "Utility Service Restoration Act", requiring all investor-owned gas and electric companies to file an annual emergency response plan with the Division of Public Utilities and Carriers (Division) by the first Monday in June. The Article outlines minimum standards of acceptable performance to ensure companies are prepared to respond with the restoration of service should an emergency occur. A fine of $500 per day may be issued to any company that fails to file the required emergency response plan. The Article also requires electric and gas distribution companies, as part of their plans for emergency events, to adhere to certain minimum standards of acceptable performance. If the Division determines that a distribution company violated the minimum standards of acceptable performance, the Division shall have the authority to levy a penalty up to $100,000 per day up to $7.5 million.
- **Penalties for Violations:** Section 13 increases the fine paid by any officer, agent, or employee of a public utility, who fails to comply with the provisions in Chapters 1-5 of RIGL 39-4, from $100 to $1,000. The Article also requires any public utility who fails to comply with Chapters 1-5 of RIGL 39-4, as determined by the Division of Public Utilities and Carriers, to forfeit a sum not exceeding the greater of $200,000 or 0.02 percent of the annual intrastate gross operating revenue of the public utility. At present, the State of Rhode Island has no provision to penalize a private utility company for failing to abide by an acceptable standard of performance to prevent and restore power outages.

Sheriff Training Academy Application Fee

The Department of Public Safety conducts an 8-week training academy for deputy sheriff recruits on an as-needed basis. The most recent class graduated in November 2019 and included 17 new deputy sheriffs. There were 393 applicants for the November 2019 class. The next class is slated for the fall of 2020.

Article 6 imposes a $50 application fee to be paid by applicants to the sheriffs' training academy. The Office of Management and Budget assumes that instituting an application fee would reduce the overall amount of applications by one third. Based on the November 2019 experience, the number of applicants for the next class would be 260 and the $50 fee revenue would be $13,000. The Director of Public Safety may waive this fee if it would impose a hardship upon the applicant. The Article does not define hardship criteria and appears to leave this determination to the discretion of the Director.

Article 7: Relating to the Environment

This article repeals the requirement that hunting and fishing regulations promulgated by the Department of Environmental Management (DEM) only remain in effect for one year after the date of effectiveness. The article also changes fees related to recreational hunting and fishing, modernizes the commercial fishing licensing system, establishes a dockside program for shellfish packing houses through the Department of Health (DOH), and, increases the Oil Spill Prevention, Administration, and Response (OSPAR) fund per-barrel fee from $0.05 to $0.10 of petroleum products received at a marine terminal in the State. The article also empowers the Director of DEM to implement an expedited permitting process and establishes the Ocean State Climate Adaptation and Resilience (OSCAR) fund, a restricted receipt fund within the budget of DEM, to fund adaptation and resiliency projects in the State.

FISCAL IMPACT

The new dockside program is projected to increase general revenue by $366,138 in new licensing fees; however, the cost of the 3.0 new FTE positions needed to manage the program and the additional operating costs are estimated to completely offset the new revenue.

The new and increased permitting fees for expedited processing are projected to increase general revenues by $599,212 in FY2021; however, this increase may be offset by the addition of 5.0 new FTE position in the Department of Environmental Management.

The article is projected to increase hunting, fishing, and OSPAR fees restricted receipts by a total of $2.0 million in FY2021 and $2.2 million in FY2022. The following table breaks out the restricted receipts by source.

Article 7 - Total Restricted Receipt Impact

	FY2021	FY2022	FY2025	FY2028
Recreational Fishing and Wildlife	$62,482	$62,482	$187,362	$313,955
Commercial Fishing License Modernization	81,025	317,050	317,050	317,050
Shellfish Packing Houses	-	-	-	-
OSPAR Fee Increase	1,858,043	1,858,043	1,858,043	1,858,043
Total Fiscal Impact (restricted receipts)	**$2,001,550**	**$2,237,575**	**$2,362,455**	**$2,489,048**

ANALYSIS AND BACKGROUND

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

Article 7. Recreational Fishing and Hunting License Fees

License/Permit	Rhode Island Current Fee	FY2021 Fee	FY2025 Fee	FY2028 Fee	Massachusetts Fees	Connecticut Fees	Regional Average[1]
Hunting	$18.00	$21.00	$24.00	$27.00	$27.50	$19.00	$26.49
Hunting Jr.	18.00	14.00	14.00	14.00	11.50	10.00	8.11
Hunting - non-resident	45.00	55.00	65.00	75.00	65.50/99.50[2]	91.00	118.54
Hunting Jr. - non-resident	45.00	40.00	40.00	40.00	65.50/99.50[2]	91.00	47.49
Hunting Landowner - non-resident	18.00	21.00	24.00	27.00	n/a[3]	n/a[3]	n/a
Hunting Tourist 3-day - non-resident	16.00	20.00	20.00	20.00	n/a	35.00	42.63
Hunting Tourist Jr. 3-day - non-resident	16.00	16.00	16.00	16.00	n/a	n/a	n/a
Hunting Active Military - non-resident	18.00	21.00	24.00	27.00	27.50	19.00	26.49
Freshwater Fishing	18.00	21.00	24.00	27.00	27.50	28.00	25.09
Freshwater Fishing - non-resident	35.00	38.00	41.00	44.00	37.50	55.00	45.89
Freshwater Fishing Tourist 3-day - non-resident	16.00	18.00	20.00	22.00	23.50	22.00	17.84
Freshwater Fishing Active Military - non-resident	18.00	21.00	24.00	27.00	27.50	28.00	25.09
Combination	33.00	38.00	43.00	48.00	n/a	40.00	50.65
Trapping	10.00	15.00	20.00	25.00	35.50	34.00	25.29
Trapping - non-resident	30.00	50.00	75.00	100.00	200.00	250.00	192.32
Game Bird Permit	15.50	17.00	18.50	21.00	n/a	25.00	28.58
Deer Permit	12.50	13.00	14.00	15.00	5.00	19.00	15.61
Deer Permit All Outdoors Package	75.00	75.00	75.00	75.00	n/a	n/a	n/a
Deer Permit - non-resident	25.50	26.50	27.50	28.50	5.00	68.00	29.11
Turkey Permit Spring	7.50	8.00	9.00	10.50	5.00	28.00	18.11
Turkey Permit Spring - non-resident	20.00	21.50	23.00	24.50	5.00	28.00	25.61
Turkey Permit Fall Archery	7.50	8.00	9.00	10.50	5.00	28.00	18.11
Turkey Permit Fall Archery - non-resident	20.00	21.00	23.00	24.50	5.00	28.00	25.61
Trout Stamp	5.50	5.50	6.00	6.50	n/a	5.00	10.22
Waterfowl Stamp	7.50	8.00	9.00	10.00	5.00	17.00	8.99/9.88[4]

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

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

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

[4]Resident/nonresident

According to DEM, the changes bring Rhode Island Fishing and Wildlife fees more in line with neighboring states. In addition, the fee collections provide the state match for federal funds used to administer the State's fish and wildlife programs. The Division of Fish and Wildlife (DFW) relies primarily on fee collections and federal funds to administer the State's fish and wildlife programs; consequently, Rhode Island's low fee structure has made it difficult for the DFW to unlock all the available federal funding. The proposal is estimate to increase restricted receipts by $62,482 in FY2021, $187,362 in FY2025, and $313,955 in FY2028. The additional revenue is projected to leverage additional federal funds at a ratio of 25:75, resulting in a corresponding increase in federal funds of $187,446 in FY2021, $562,086 in FY2025, and $941,865 in FY2028.

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

Commercial Fishing License Fees:

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

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

DEM estimates that the updated fee structure will increase annual restricted receipts by $81,025 in FY2021 and $317,050 in FY2022, which will unlock additional federal funds. There is no general revenue impact. The additional restricted receipts will replace expiring federal grants such as the one currently supporting the electronic seafood dealer program, also known as the Standard Atlantic Fishery Information System (SAFIS). The program, including data auditing, customer service, and compliance management, is currently supported by the Atlantic Coastal Cooperative Statistics Program (ACCSP), which is in the first year of a three-year phase out.

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

Multistate Commercial Fishing License Fee Analysis (2017)

Type of License	Connecticut	New York	Massachusetts	Rhode Island Current (average)	Rhode Island Proposed (average)
Limited License (single sector focus) - Resident	$790 - $975	$180 - $450	$160 - $310	$209	$200
Limited License (single sector focus) - Non-Resident	855 - 2,100	275 - 1,250	320 - 570	460	700
Maximum Flexibility License - Resident	790 - 975	780	1,240	329	4450
Maximum Flexibility License - Non-Resident	885 - 2,100	1,975	2,330	n/a	n/a
Party and Charter Vessel - Resident	315	250	65 - 130	25/2 years	100
Party and Charter Vessel - Non-Resident	315	250	130 - 260	25/2 years	300

Source: Rhode Island Department of Environmental Management

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

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

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

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

Commercial Fishing License Modernization

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

Source: Department of Environmental Management

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

If approved by the 2020 General Assembly, the Initiative will go through rulemaking in the fall of 2020 and be implemented in 2021. The proposal will address problems with an outdated, overly complicated, and unbalanced commercial fishing license structure, while also addressing a funding deficit in the Division of Marine Fisheries caused by discontinued federal resources and growing responsibilities.

Shellfish Packing Houses:

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

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

The new dockside program would require 2.0 FTE Lab Scientist positions and 1.0 FTE Food Specialist. The cost of the FTE positions, in addition to operating costs, would result increased expenditures of $366,138, funded by the proposed license fee.

Expedited Permit Processing in the Department of Environmental Management (DEM)

The article empowers the Director of DEM to designate case managers to facilitate and expedite project permitting, particularly for complex projects, and to coordinate permitting with the mitigation of non-compliant conditions of project sites. Through the regulatory process, new performance-driven permitting fees will be added and some fees would be increase, bringing them in line with neighboring states. In addition, the Governor's FY2021 Budget includes 5.0 new FTE Environmental Engineer I positions to expedite permit processing times. According to DEM, between FY2015 and FY2019, the Department saw a 33.0 percent increase in permit applications and a 3.0 percent decrease in staffing levels. The new and increased permitting fees are projected to increase general revenues by $599,212 in FY2021.

Uniform Oil Spill Prevention, Administration, and Response (OSPAR) Fee

The article increases the cap on the per-barrel fee of petroleum products received at a marine terminal in the State from $0.05 to $0.10. The increase is to replenish the OSPAR fund, as well as capitalizing a new Ocean State Climate Adaptation and Resilience (OSCAR) Fund. Of the $0.05 increase, $0.02 (an estimated $743,217) would go to the OSPAR Fund and $0.03 (an estimated $1.1 million) would be deposited into the OSCAR Fund. The OSCAR Fund is a restricted receipt account within DEM that would be used for adaptation and resilience projects.

The OSPAR Fund was established in 1996 in response to the environmental damage caused by the North Cape Oil Spill along the Rhode Island coast. Pursuant to RIGL 46-12.7-5.1, the funds may be used to cover the costs of response, containment, and cleanup of oil spills into marine or estuarine waters. The OSPAR Fund may also be used for structural improvements to reduce the risk of oil tanker spills, restoration of natural resources, response training and equipment, and monitoring activities. The fund is capitalized primarily with a fee of $0.05 for each barrel of petroleum products received at a marine terminal in the State. The North Cape spill cost the State approximately $3.0 million ($4.8 million in today's dollars).

The table estimates the impact of the proposed fee increase. Over the last five years, expenditures from the fund have averaged $2.1 million annually. Of note, while raising the per-barrel fee, the Administration also plans to transfer $1.0 million in accumulated OSPAR balances to the General Fund to help balance the budget in FY2020.

Oil Spill Prevention, Administration Response Fund

	FY2020	FY2021 Without Fee Increase	FY2021 With Fee Increase
Carry Forward	$3,188,721	$1,379,737	$1,379,737
Total Account Revenue[1]	1,773,974	1,773,974	2,517,191
Total Account Expenditures[1]	(2,582,958)	(2,506,080)	(2,506,080)
FY2020 Transfer	(1,000,000)		
Difference	**$1,379,737**	**$647,631**	**$1,390,848**

[1]Revenues are based on the Department's FY2021 Budget request. Expenditures are based on the Governor's FY2021 Budget.

Ocean State Climate Adaptation and Resilience (OSCAR) Fund

As part of a broader effort to fight climate change, the article creates the OSCAR fund, a restricted receipt fund, within the budget of the Department of Environmental Management, to fund adaptation and resiliency projects as defined in the statute. The article further empowers the Director of DEM, in consultation with the Coastal Resources Management Council, to adopt rules and regulations necessary for the administration and enforcement of the OSCAR fund.

- ***Financing the OSCAR Fund:*** The fund will be capitalized primarily with $0.03 of the $0.05 increase in the per-barrel the fee on petroleum products received at marine terminals in the State (an estimated $1.1 million annually). Other sources of revenue include federal, state, or other resources identified for use in climate adaptation, and private donations.
- ***Allocation of OSCAR Funds:*** The OSCAR funds may be used for administrative costs (up to $75,000 annually); projects approved by DEM upon recommendation by the technical advisory committee, including planning and design, engineering, construction; and monitoring of projects.
- ***Technical Advisory Committee:*** The technical advisory committee will consist of a representative from DEM, the Executive Climate Change Coordinating Council, Statewide Planning, and the Rhode Island Emergency Management Authority. The article identifies numerous factors the Committee shall consider in prioritizing project applications, including but not limited to the following:
  - Consistency with the State's resiliency strategy, the Coastal Resources Management Council's most recent sea level rise projections, the coastal habitat restoration strategy, the State nonpoint pollution control plan, and other applicable state and federal laws,
  - The ability of the applicant to carry out and maintain the project,
  - Whether the project will enhance public access,
  - The extent of public use of the land,
  - The impact on habitat loss and restoration,
  - The extent of collaboration between partners including municipalities, nongovernmental organizations, and federal agencies, and
  - The benefits to the public and the estimated time frame of those benefits.
- ***Eligible Projects:*** Only adaptation and resilience projects approved by DEM upon recommendation of the technical advisory committees are eligible for funding. Such projects include proposals on public land and open space that protect or enhance natural systems and habitants, that are proposed in response to climate change impacts, and that improve climate resilience.

Analyst NoteI "Open space" includes privately owned land. The article defines "open space" as "land in its natural state" or "contiguous tracts of undeveloped land" that serves to "enhance agricultural values or public access to shorelines and riverbanks."

- ***Ineligible Projects:*** OSCAR funds may not be used to mitigate current or future projects that degrade or otherwise destroy coastal, estuarine, or riverine habitats, or for restoration required pursuant to an environmental or public health enforcement action. With the exception of certain culverts and bridge spans, the funds may not be used to repair or replace infrastructure in its existing location, or for constructing roads, bridges, or new shoreline protections.
- ***Reporting Requirements:*** Beginning in January 2022, DEM will submit a report to the General Assembly by the tenth day following the convening of each regular session. The report will include the amount of money awarded from the OSCAR fund in the previous fiscal year, a brief summary of the projects funded, the timeline of the implementation of the projects, and any other information the General Assembly requests.

Article 8: Relating to Taxes

Article 8 expands the sales tax base, modifies the taxation of alcohol, amends State law to support and authorize participation in the U.S. Treasury Department's offset programs, increases the State's 5.0 percent hotel tax and modifies its distribution, and authorizes a local meal and beverage tax collection assessment. Specifically, the article:

- **Sales Tax Base Expansion:** Subjects computer system design services; hunting, trapping, and shooting services; lobbying services; courier and messenger services; and interior design services to the State's 7.0 percent sales tax.
- **Alcohol-Related Tax Changes:** Lowers the alcohol excise tax rate on high proof spirits from $5.40 to $3.75 per gallon and the excise tax on still wine from $1.40 to $0.60 and subjects wine and spirits to the 7.0 percent sales and use tax.
- **U.S. Treasury Offset Program:** Authorizes the Division of Taxation to enter into an agreement with the United States Treasury to participate in its Treasury Offset Program (TOP).
- **Hotel Tax Increase:** Increases the 5.0 percent State hotel tax to 6.0 percent. The hotel tax distribution formula is adjusted to hold local tourism districts and the Commerce Corporation harmless, with all additional revenue from the 1.0 percentage point increase going to the general fund.
- **Collection Assessment - Meal and Beverage and Hotel Taxes:** Authorizes the Division of Taxation to assess a 2.0 percent collection fee on revenue collected on behalf of municipalities related to the local meals and beverage tax and the hotel tax.

FISCAL IMPACT

Article 8 is estimated to generate a total of $33.0 million in new general revenue in FY2021.

Article 8 Proposal	FY2021
Sales Tax Expansion	$14.1
Alcohol-Related Tax Changes	9.1
U.S. Treasury Offset Program	5.0
Hotel Tax Increase	4.7
Collection Assessment - Meal and Beverage and Hotel Taxes	0.8
Total	**$33.8**

$ in millions. Totals may vary due to rounding.

ANALYSIS AND BACKGROUND

Sales Tax Expansion

Over the last decade, Rhode Island has consistently expanded the types of professional services that are subject to the State's sales tax (i.e. security services in 2018, ride-share services in 2017, and pet care services in 2012). Article 8 continues this trend by expanding the sales tax to include computer system design services; courier and messenger services; hunting, trapping, and shooting range services; lobbying; and interior design services. These services are delineated by the federal North American Industrial Classification System (NAICS) and designated by numerical classification codes. The expansion is estimated to generate $14.1 million in FY2021.

Sales Tax Changes	Amount
Computer System Design Services	$7.9
Courier and Messenger Services	4.1
Hunting, Trapping, and Shooting Ranges	0.8
Lobbying Services	0.7
Interior Design Services	0.6
Total	**$14.1**

$ in millions. Totals may vary due to rounding.

- **Computer System Design Services:** Article 8 expands the sales tax base to include computer system design and related services. These include industries primarily engaged in providing expertise in the field of information technology and include activities such as writing, modifying, testing, and supporting software to meet the particular needs of a customer. It may also include the planning, designing, and on-site management of clients' computer systems and data processing facilities.

  The Office of Revenue Analysis (ORA) estimates that sales tax collected on computer system design services will generate $7.9 million in general revenue in FY2021 based on an October 1, 2020, start date.

- **Courier and Messenger Services:** Article 8 expands the sales tax base to include courier and messenger services. These include industries primarily engaged in providing air, surface, or combined mode courier and express delivery services. This includes food and parcel delivery. There are 30 businesses operating in Rhode Island that fall into this category. ORA estimates $4.1 million in new sales tax revenue based on a January 1, 2021 start date.

- **Hunting, Trapping, and Shooting Range Services:** Article 8 subjects services delineated by NAICS as "hunting and trapping" to the sales and use tax. The tax would apply to charges paid for the right or privilege to access a place where these services are provided. This includes dues and membership fees. Special assessments of club members for capital improvements are exempt; however, any of these funds left unexpended would be taxable three years after the assessment.

  Using personal consumption data ORA estimated that fishing, hunting, game preserves, and shooting ranges comprise 5.7 percent of the overall untaxed recreational services sector in the State. ORA then employed its sales and use tax simulation model to determine the impact of adding this category to the sales and use tax base. Based on this analysis, ORA projects $818,036 in FY2021 revenue based on an October 1, 2021, start date.

- **Lobbying Services:** Article 8 expands the categories of services subjected to the sales tax to include lobbying. For purposes of the sales tax, lobbying means "acting directly or soliciting others to act for the purpose of promoting, opposing, amending, or influencing any action or inaction by any member of the executive or legislative branch of state government or any public corporation" or "any regional or municipal government, agency, or board." It does not include these activities if directed towards the federal government, another state, or another country. It also does not include political consulting, public relations services, or public relations consulting services.

  There are approximately 548 registered lobbyists in the State. Using an October 1, 2020, start date, ORA estimates $692,982 in new revenue.

- **Interior Designers:** Article 8 expands the sales and use tax to include interior design services. The specific services as delineated by NAICS are specialized design services (interior design). ORA estimates $628,089 in FY2021 revenue based on a January 1, 2021, start date.

Analyst Note: The language in Section 5 of the Article 8 specifically cites NAICS code 541410 to delineate the type of interior design services that are to be subject to the sales tax. It does not, however, include architectural services (NAICS code 541310). Firms categorized under this NAICS often provide interior design services as part of its business. This activity would not be taxed under Article 8.

Alcohol-Related Tax Changes

Article 8 reduces the alcoholic beverage excise tax levied on wine and spirits and repeals their exemption from the State's 7.0 percent sales and use tax. Based on a July 1, 2020, effective date, these changes are estimated to generate $9.1 million in additional general revenue.

Alcohol Taxes	Amount
Reimpose Sales Tax on Wine and Spirits	$14.4
Reduction of Alcohol Taxes	(5.3)
Total	**$9.1**

$ in millions. Totals may vary due to rounding.

The State levies taxes on alcoholic beverages imported, manufactured, rectified, blended, or reduced for sale in the State. Alcohol taxes are payable monthly for imported beverages and quarterly for beverages manufactured within the State. Alcohol taxes are deposited as general revenues.

In 2013, the General Assembly restructured the State's alcohol tax structure. The changes included both an increase in alcohol excise tax rates on wine and spirits and an exemption from the sales tax. Article 8 reinstates the previous excise tax rates, reducing the excise tax on still wines from $1.40 per gallon to $0.60 and on spirits from $5.40 per gallon to $3.75. The table below shows the excise tax changes and how they compare to neighboring states:

Alcohol Excise Tax Rate History & Regional Comparison

Type	Pre-2013 Rate	Current Rate	Article 8 Rate	MA	CT	Per Unit
Beer	$3.00	$3.30	$3.00	$3.41	$7.44	Barrel
Still Wines *(Entirely RI Grown)*	0.30	0.30	0.30	-	-	Gallon
Still Wines	0.60	1.40	0.60	0.55	0.79	Gallon
Sparkling Wines	0.75	0.75	0.75	0.70	1.94	Gallon
Whiskey, Rum, Gin, Spirits, Etc.	3.75	5.40	3.75	4.05	5.94	Gallon
Whiskey, Rum, Gin, Spirits, Etc. *(≤ 30 Proof)*	1.10	1.10	1.10	1.10	2.75	Gallon
Ethyl Alcohol *(Beverage Use)*	7.50	7.50	7.50	-	-	Gallon
Ethyl Alcohol	0.08	0.08	0.08	-	-	Gallon

Note: Massachusetts exempts alcohol from the state's 6.25 percent sales tax. Connecticut taxes the sales of alcohol at 6.35 percent.

Analyst Note: The 2013 changes were intended to be temporary, with rates set to expire on July 1, 2015. However, the 2015 General Assembly made the changes permanent. The reported intent of the initial pilot approach was for the Division of Taxation to collect the necessary data to evaluate the impact of Rhode Island excise and sales tax changes on wine and spirit sales. According to the Division of Taxation, this analysis was never undertaken. Statutorily-mandated alcohol tax reports do, however, report some data on sales and foregone revenue. The following table shows wine and spirit sales activity from TY2013-TY2018:

Wine and Spirits Sales Activity TY2013-TY2018

Tax Year	Total Sales	Growth over Previous Year	Foregone Revenue
2013*	196.1	-	-
2014	221.4	12.9%	15.5
2015	237.1	7.1%	16.6
2016	242.9	2.4%	17.0
2017	240	1.2%	16.8
2018	244.3	1.8%	17.1

$ in millions

**2013 alcohol tax changes became effective December 2013. Taxation does not have data on total sales of wine and spirits for TY2013.*

U.S. Treasury Offset Program

Article 8 authorizes the Division of Taxation to enter into an agreement with the United States Treasury to participate in its Treasury Offset Program (TOP). Under the TOP, the federal government crosschecks to see whether individuals or businesses who are delinquent in paying Rhode Island taxes are due a federal tax refund. If they are, the Treasury offsets the payment and diverts it, in whole or in part, to the State. Article 8 also authorizes Taxation to establish a reciprocal state program to assist the federal government in recouping tax debt. If a Rhode Island taxpayer owes delinquent federal taxes, the article permits the Division of Taxation to withhold the owed amount from State tax refunds and remit it to the federal government. The federal government requires reciprocal participation in TOP. The Office of Management and Budget (OMB) estimates that participating in the program will yield $5.0 million in additional revenue collections, across nine tax types, based on an effective date of July 1, 2020.

Estimated Revenue Recapture from U.S. Treasury Offset Program	Amount
Sales and Use Taxes	$2.2
Business Corporations Taxes	1.7
Personal Income Taxes	0.6
Public Utilities Gross Earnings Taxes	0.2
Tobacco Dealer Licensing	0.1
OTP Excise Tax	0.1
Health Care Provider Assessment - Nursing Home Taxes	0.1
Cigarette Excise Tax	0.0
Insurance Companies Gross Premium Taxes	0.0
Total	**$5.0**

$ in millions. Totals may vary due to rounding.

Hotel Tax Changes

Section 6 of Article 8 raises the State's hotel tax rate from 5.0 percent to 6.0 percent. Section 2 of the article alters the distribution of the State hotel tax.

State Hotel Tax Increase: Article 8 increases the State hotel tax from 5.0 percent to 6.0 percent. All revenue raised from the additional 1.0 percent is to be deposited into the general fund. Based on a July 1, 2020, effective date, the tax increase is estimated to generate $4.7 million in additional general revenue in FY2021.

State Hotel Tax Distribution: Article 8 also changes State hotel tax share ratios in order to ensure that the entire increase in the hotel tax goes to the general fund and not to the various entities under the current formula. The adjustments to the shares are summarized in the table below. These adjustments have the practical effect of providing the entities the same amount they would have received had the state hotel tax remained at 5.0 percent.

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

Location of Room Rental/ State Hotel Tax Recipient	Current Share of Hotel Tax (5.0 %)	Article 8 Share of Hotel Tax (6.0%)
Providence		
Providence Convention Authority	30.0%	25.0%
City of Providence	25.0%	20.8%
RI Commerce Corporation	21.0%	17.5%
Providence Warwick Convention Visitors Bureau	24.0%	20.0%
General Revenue	0.0%	16.7%
Warwick		
Warwick Department of Economic Development	30.0%	25.0%
City of Warwick	25.0%	20.8%
RI Commerce Corporation	21.0%	17.5%
Providence Warwick Convention Visitors Bureau	24.0%	20.0%
General Revenue	0.0%	16.7%
Omni Hotel (Providence)		
Providence Convention Authority	30.0%	25.0%
RI Commerce Corporation	50.0%	41.6%
Providence Warwick Convention Visitors Bureau	20.0%	16.7%
General Revenue	0.0%	16.7%
Statewide District*		
Municipality of Room Rental	25.0%	20.8%
RI Commerce Corporation	70.0%	58.3%
Providence Warwick Convention Visitors Bureau	5.0%	4.2%
General Revenue	0.0%	16.7%
All Other Locations in the State		
Regional Tourism District of Room Rental	45.0%	37.5%
Municipality of Room Rental	25.0%	20.8%
RI Commerce Corporation	25.0%	20.8%
Providence Warwick Convention Visitors Bureau	5.0%	4.2%
General Revenue	0.0%	16.7%
Rental Via Hosting Platform (ie. Airbnb)		
Municipality of Room Rental	25.0%	20.8%
RI Commerce Corporation	75.0%	62.5%
General Revenue	0.0%	16.7%

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

Collection Assessment - Meals and Beverage and Hotel Taxes

The State collects a 1.0 percent tax, on top of the 7.0 percent sales tax, on all meals and beverages sold in Rhode Island. The tax is collected and submitted to the Division of Taxation by eating and/or drinking establishments on a monthly basis. The Division of Taxation collects the taxes and distributes them monthly, to the city or town in which the meals and beverages are delivered. Similarly, Taxation collects the non-state portions of the hotel tax and distributes it to the appropriate municipalities and organizations.

Article 8 authorizes the Division of Taxation to retain 2.0 percent of the meal and beverage tax revenue and hotel tax revenue prior to distribution as an administrative fee. The revenue from the 2.0 percent fee would be deposited as general revenue. Based on a July 1, 2020 effective date, this fee is expected to generate an additional $799,333 in general revenue in FY2021.

Analyst Note: The State collects the meal and beverage tax on behalf of all municipalities. It does the same for the state hotel tax except for Newport. Newport collects its own portion of the hotel tax and reports it to Taxation. The 2.0 percent fee, therefore, would not be applicable to the revenue generated by the hotel tax in that city.

Article 9: Relating to Local Aid

This article creates a tangible property tax reduction incentive program, authorizes municipalities to levy property taxes on non-mission related buildings and property owned by tax-exempt entities, and modifies the car tax phase-out formula.

- **Car Tax Phase-Out Formula:** Article 9 adjusts the car tax phase-out formula, which effectively increases local property tax assessments from current law and reduces State reimbursements for foregone aid in FY2021.
- **Tangible Personal Property Tax Competitiveness Program:** Article 9 establishes an incentive to reduce municipal tangible personal property tax rates.
- **Property Tax Expansion:** Article 9 provides municipalities with authority to assess the value of and levy taxes on property that is not exclusively used by non-profit institutions in support of carrying out their missions.

FISCAL IMPACT

The car tax phase-out modifications result in a net $11.8 million reduction in planned state-aid for of FY2021. The proposed tangible personal property tax competitiveness program requires $85,000 in consulting expenditures in FY2021.

ANALYSIS AND BACKGROUND

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

Modification to the Car Tax Phase-out Formula

Article 9 modifies several of the levers used in calculating the state aid formula for the motor vehicle tax phase-out state aid. Specifically, the article modifies the assessment ratio utilized by the State's Vehicle Valuation Commission and local tax assessors when valuing motor vehicles in relation to levying the motor vehicle excise tax. It also changes the minimum required exemption amounts and the maximum allowable tax rates used in the phase-out formula. Lastly, it extends the phase-our period by five years, from FY2024 to FY2029. As a result of changing these levers, taxpayers would pay $11.8 million more in motor vehicle excise taxes in FY2021 than under current law.

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

Based on the current formula, total state aid in FY2021 for the car tax phase-out to municipalities will be $112.6 million, 24.7 percent more than the revised FY2020 level of $90.3 million (inclusive of the standing $10.0 million in state aid established prior to FY2018).

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

- **Assessment Ratio:** When determining the value of a vehicle for purposes of the property tax levy, municipalities typically use an amount that is a function of the "clean retail" value reported in the National Automobile Dealers Association Official Used Car Guide - New England Edition. The car tax phase-out formula includes a graduated cap on the percentage of "clean retail" that assessors may use. Article 9 modifies these caps from 80.0 percent to 82.5 percent in FY2021, 75.0 percent to 80.0 percent in FY2022, and 70.0 percent to 77.5 percent in FY2023. The article then establishes new ratios for FY2024 through FY2028 (see table).

Assessment Ratio

Fiscal Year	Current	Article 9	*Change*
FY2018 Baseline	100.0%	100.0%	*0.0%*
FY2018	95.0%	95.0%	-
FY2019	90.0%	90.0%	-
FY2020	85.0%	85.0%	-
FY2021	80.0%	82.5%	*2.5%*
FY2022	75.0%	80.0%	*5.0%*
FY2023	70.0%	77.5%	*7.5%*
FY2024	N/A	75.0%	*75.0%*
FY2025	N/A	72.5%	*72.5%*
FY2026	N/A	70.0%	*70.0%*
FY2027	N/A	67.5%	*67.5%*
FY2028	N/A	65.0%	*65.0%*
FY2029	N/A	N/A	*N/A*

- **Exemption Minimum:** Municipalities typically permit a partial minimum exemption on the value of a vehicle for purposes of levying their property taxes. The car tax phase-out formula establishes graduated minimum levels over the seven year phase-out. Article 9 reduces the FY2021 minimum from $4,000 to $3,500, FY2022 minimum from $5,000 to 4,000, and the FY2023 minimum from $6,000 to $4,500. The article then establishes new minimums for FY2024 through FY2028 (see table).

Exemption Floor

Fiscal Year	Current	Article 9	*Change*
FY2018 Baseline	$500	$500	*$0*
FY2018	1,000	1,000	-
FY2019	2,000	2,000	-
FY2020	3,000	3,000	-
FY2021	4,000	3,500	*(500)*
FY2022	5,000	4,000	*(1,000)*
FY2023	6,000	4,500	*(1,500)*
FY2024	N/A	5,000	*5,000*
FY2025	N/A	5,500	*5,500*
FY2026	N/A	6,000	*6,000*
FY2027	N/A	7,000	*7,000*
FY2028	N/A	8,000	*8,000*
FY2029	N/A	N/A	*N/A*

- **Excise Rate Cap:** The various municipal property tax excise rates in effect in 1998, when the first car tax reforms were enacted, were frozen until the FY2018 Budget as Enacted. At that time, an excise tax cap was established and gradually reduced until the complete phase-out in FY2024. Article 9 modifies the annual cap for FY2022, raising it from $30 to $33 per $1,000 of value and $20 to $25 per $1,000 value for FY2023. The article then establishes new minimums for FY2024 through FY2028 (see table).

Rate Cap

Fiscal Year	Current	Article 9	*Change*
FY2018 Baseline	N/A	N/A	*N/A*
FY2018	$60	$60.0	*$0*
FY2019	50	50.0	-
FY2020	35	35.0	*0*
FY2021	35	35.0	-
FY2022	30	33.0	*3.00*
FY2023	20	31.0	*11.00*
FY2024	N/A	26.5	*26.50*
FY2025	N/A	22.5	*22.50*
FY2026	N/A	19.0	*19.00*
FY2027	N/A	15.0	*15.00*
FY2028	N/A	10.0	*10.00*
FY2029	N/A	N/A	N/A

Under the current formula, the general revenue supported car tax phase-out State aid grows 24.7 percent in FY2021 and FY2022. The formula as modified by Article 9 grows State aid by 11.6 percent in FY2021 and FY2022. Overall, by changing the levers and extending the phase-out time period, Article 9 moderates the year-over-year increases as compared to the current formula. The following table outlines the various changes to the car tax formula in Article 9 and their impact:

Comparison Between Current Law and Governor's Proposed Motor Vehicle Tax Phase-out

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
Current Law												
State Assessment Ratio	95.0%	90.0%	85.0%	80.0%	75.0%	70.0%	-	-	-	-	-	-
Rate Cap	$60.0	$50.0	$35.0	$35.0	$30.0	$20.0	-	-	-	-	-	-
Exemption Amount	$1,000	$2,000	$3,000	$4,000	$5,000	$6,000	-	-	-	-	-	-
Total Statewide Aid:	$24,544,191	$46,282,300	$80,263,694	$102,566,219	$130,378,609	$165,259,237	$224,550,736	$231,605,162	$237,136,338	$242,721,320	$248,343,148	$253,991,518
Additional Aid from Previous FY	$24,544,191	$21,738,109	$33,981,394	$22,302,525	$27,812,389	$34,880,629	$59,291,499	$7,054,426	$5,531,176	$5,584,982	$5,621,828	$5,648,371
Governor's Proposal												
State Assessment Ratio	95.0%	90.0%	85.0%	**82.5%**	**80.0%**	**77.5%**	**75.0%**	**72.5%**	**70.0%**	**67.5%**	**65.0%**	
Rate Cap	$60.0	$50.0	$35.0	$35.0	**$33.0**	**$31.0**	**$26.5**	**$22.5**	**$19.0**	**$15.0**	**$10.0**	
Exemption Amount	$1,000	$2,000	$3,000	**$3,500**	**$4,000**	**$4,500**	**$5,000**	**$5,500**	**$6,000**	**$7,000**	**$8,000**	
Total Statewide Aid:	$24,544,191	$46,282,300	$80,263,694	$90,745,937	$102,632,964	$114,418,804	$131,447,356	$147,107,315	$161,573,760	$180,521,698	$197,303,934	$224,550,736
Additional Aid from Previous FY	$24,544,191	$21,738,109	$33,981,394	$10,482,243	$11,887,027	$11,785,840	$17,028,552	$15,659,959	$14,466,445	$18,947,938	$16,782,236	$27,246,802
Statewide Aid Variance				**($11,820,282)**	**($27,745,645)**	**($50,840,434)**	**($93,103,380)**	**($84,497,848)**	**($75,562,578)**	**($62,199,622)**	**($51,039,214)**	**($29,440,782)**

TOC

Tangible Personal Property Tax Competitiveness Program

Article 9 establishes a limited incentive program for municipalities to reduce their tangible personal property tax (TPPT) rates in order to make these cities and towns, and Rhode Island as a whole, more competitive, regionally and nationally. Under the program, the State would provide partial offsetting payments to participating municipalities that implement a reduction in their TPPT rates.

State	Statewide Average ETR	Net TPPT Assessed Value	TPPT Levy
Rhode Island	3.89%	$4,813.4	$187.1
Connecticut	3.37%	22,029.7	741.9
Maryland	2.68%	13,079.0	350.8
Massachusetts	2.15%	36,153.5	777.3
Maine	1.82%	5,998.9	109.3
Vermont	0.64%	957.8	6.2
New Hampshire	-	-	-
Pennsylvania	-	-	-
Delaware	-	-	-
New York	-	-	-
New Jersey	-	-	-

$ in millions

Source: Ernst and Young

Tangible personal property (TPP) comprises property that can be moved or touched, and commonly includes items such as business equipment, furniture, and automobiles. Intangible personal property, by contrast, includes things like patents, intellectual property, and financial instruments such as stocks.

The taxation of TPP varies from state to state. Some states limit the types of TTP that are allowed to be taxed (i.e. the exclusion of vehicles), while others prohibit taxation altogether. Rhode Island has an effective tax rate (ETR) of 3.89 percent, the highest in the Northeast.

The tangible personal property tax rates for cities and towns in Rhode Island range from a high of 7.31 percent in Central Falls to 0.62 percent in New Shoreham. Rhode Island has 14 municipalities with higher TPPT rates than the state average for Connecticut, the state with the next highest effective tax rate. The following table shows a comparison of TPPT rates by municipality.

Tangible Personal Property Taxes (TPPT) - Municipal Comparison

Municipality	TPPT Rate	TPPT as a Percent of Total Tax Levy	TPPT as a Percent of Total Tax Levy without MV	TPPT Levy by Municipality
Central Falls	7.31%	9.24%	9.86%	$1,478,904
North Providence	6.89%	7.22%	7.78%	5,047,839
Johnston	6.40%	15.78%	17.17%	11,927,795
Smithfield	5.97%	15.21%	16.63%	9,087,361
East Providence	5.64%	13.75%	14.96%	14,980,408
Providence	5.58%	15.43%	16.04%	55,216,367
Pawtucket	5.21%	6.70%	7.19%	7,086,144
Woonsocket	4.66%	9.80%	10.57%	5,483,581
West Warwick	4.49%	8.36%	8.87%	5,598,805
North Smithfield	4.25%	16.51%	17.94%	5,718,590
Glocester	4.09%	3.50%	3.78%	773,637
Scituate	3.81%	2.64%	2.79%	815,314
Warwick	3.75%	8.66%	9.40%	20,903,741
West Greenwich	3.63%	6.92%	7.25%	1,411,745
Foster	3.26%	2.23%	2.42%	296,587
Lincoln	3.13%	9.78%	10.65%	5,553,037
Cranston	3.12%	5.55%	5.93%	10,472,091
Cumberland	3.09%	8.78%	9.36%	5,951,525
East Greenwich	2.34%	3.32%	3.43%	1,886,268
Coventry	2.22%	3.02%	3.19%	2,297,809
Richmond	2.19%	2.36%	2.48%	465,910
Hopkinton	2.07%	4.06%	4.30%	779,722
Barrington	2.01%	1.34%	1.42%	871,905
Warren	1.91%	2.51%	2.66%	599,999
North Kingstown	1.71%	3.48%	3.69%	2,854,728
Portsmouth	1.64%	2.26%	2.34%	1,267,421
Burrillville	1.60%	8.73%	9.65%	2,813,658
Tiverton	1.58%	2.70%	2.80%	1,022,792
Exeter	1.57%	2.40%	2.69%	349,891
Newport	1.54%	2.54%	2.60%	2,018,718
South Kingstown	1.45%	2.17%	2.26%	1,648,609
Narragansett	1.43%	2.70%	2.77%	1,446,300
Bristol	1.37%	1.41%	1.48%	634,217
Middletown	1.32%	2.87%	2.97%	1,359,409
Little Compton	1.19%	1.00%	1.02%	128,607
Westerly	1.12%	1.95%	2.06%	1,469,478
Charlestown	0.92%	0.78%	0.80%	182,714
Jamestown	0.81%	0.55%	0.56%	116,397
New Shoreham	0.62%	1.07%	1.08%	111,663

Source: Department of Revenue - Office of Municipal Finance. 2018 data.

The new voluntary program established under Article 9 is designed to incentivize the reduction of municipal TPPT rates with the objective of lowering Rhode Island's statewide average TPPT rate relative to other states in the Northeast. The proposed program provides funds to municipalities to offset the revenue loss resulting from the reduction in TPPT rates.

Administration: The new program will be administered by the Department of Revenue's Division of Municipal Finance (DMF) and the Executive Office of Commerce and CommerceRI will formally provide input on program and regulatory design. According to EOC and DMF staff, no additional personnel is required to run the program.

Fiscal Impact: Offset payments will be made from a fund established within the DMF. The article provides a year-long implementation ramp-up period, with first payments to municipalities being made in FY2022. The article caps the amount of funding for the program at $2.5 million in FY2022 and $5.0 million in FY2023. The Budget provides $85,000 to the EOC in FY2021 for advisory services related to commercial tax research.

Eligibility Criteria and Application Process: The DMF, in consultation with Commerce, is charged with developing a methodology for determining municipal eligibility and an application process. Pursuant to the article, this selection process shall consider:

- The rate to which a municipality's tangible personal property tax will be reduced;
- The effective date for this rate reduction;
- Methods for sustaining the rate reduction over time;
- Evidence that the municipality's reduction of the tangible personal property rate complies with all applicable property tax classification laws and local ordinances; and
- Representation of a municipality's ability to reduce its tangible personal property tax rate while complying with the levy cap requirements as provided for under §44-5-2.

The application and review process will include:

- A preliminary application;
- Notification from the DMF that the preliminary application is acceptable, acceptable with conditions, or denied;
- Confirmation from a municipality with an acceptable preliminary application that it intends to participate in the program; and
- A final application.

Formula for TPPT Offset Payments: The Division of Municipal Finance, in consultation with Commerce, is authorized to develop a formula to calculate fund payments to participating municipalities. The article requires that this formula be based upon the estimated tangible levy losses resulting from reductions in tangible personal property tax rates. The estimated tangible levy losses must be based upon the following:

- The reduced tangible personal property tax rate in effect in the year for which state aid applies;
- The lesser of the tangible personal property tax rates in the full fiscal year preceding the enactment of the aid program and the full fiscal year prior to the submission of the municipality's preliminary application; and
- The lesser of the net tangible personal property assessments in the full fiscal year preceding the enactment of the aid program and the full fiscal year prior to the submission of the municipality's preliminary application.

Pursuant to the article the tiered partial reimbursement rates in FY2022 will be:

- 50.0 percent of the estimated tangible levy loss resulting from a reduction in the tangible personal property tax rate within a range above a 6.5 percent rate for the applicable certified assessment date;
- 25.0 percent of the estimated tangible levy loss resulting from a reduction in the tangible personal property tax rate between the interval of and below a 6.5 percent rate and above a 5.0 percent rate; and;
- 10.0 percent of the estimated tangible levy loss resulting from a reduction in the tangible personal property tax rate between the interval of and below a 5.0 percent rate and above a 2.15 percent rate.
- In succeeding fiscal years, the Division of Municipal Finance may adjust these partial reimbursement rates, in consultation with Commerce.

Analyst Note: According to the EOC, the 2.15 percent minimum TPPT rate at which an eligible municipality may receive funds was selected because it is equal to Massachusetts' average TPPT effective rate.

Reporting Requirement: Article 9 provides for program reporting requirements. At the end of each fiscal year, the DMF, with the support of Commerce, will report on:

- The amount of state matching funds provided to each participating municipality and overall;
- The levels to which participating municipalities reduced their tangible tax rates;
- The reduced tangible tax levy for each participating municipality and overall; and
- An analysis of each participating municipality's tax levy by property class.

Property Tax Expansion – Non-Profit Organizations

Background: Under current state and federal law, any property, real or personal, owned by a tax-exempt non-profit organization is not required to pay municipal property taxes. Examples of such non-profit organizations include colleges, universities, and certain hospitals. For some communities, the amount of real and personal property owned by such organizations represents a significant amount of the potential property tax base. Often, municipalities will enter into agreements with such organizations where a payment in lieu of tax (PILOT) is negotiated. The payment is typically less than what the organization would owe if the full valuation of the property was taxable. These agreements acknowledge that municipalities must still provide services, such as police, fire, and sanitation, to non-profits and help offset the cost of doing so.

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

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

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

Article 10: Relating to Education

This article makes numerous changes to the General Laws relating to Education. Major changes include renaming the English Learner (EL) categorical as multilingual learners (MLL), expanding the School Resource Officer categorical to included mental health professionals, and increasing the fee on municipalities to fund the School Building Authority (SBA) through the Rhode Island Health and Educational Building Corporation (RIHEBC). The article also eliminates the sunset on the Rhode Island Promise Scholarship program, and extends the Wavemaker Fellowship to STEM teachers while changing the current sunset to December 2023.

FISCAL IMPACT

Funding prekindergarten seats through the funding formula is projected to save $251,095 relative to the amount of funding provided through the categorical program in FY2020.

The article eliminates the sunset of the Rhode Island Promise Scholarship program thereby increasing projected costs beyond FY2022; however, the impact would depend on future enrollment trends and tuition rates. Extending the sunset of the RI Wavemaker Fellowship program for three more years to December 31, 2023, would also increase projected future costs; however, since the statute limits the commitment of awards to available funds, the expanded obligation would depend on the appropriated funding. The Budget provides an increase of $872,000 in Wavemaker Fellowship funding ($2.1 million total) in FY2021, and $1.2 million in FY2020.

Increasing the cap on the fee charged to municipalities to support the SBA from one tenth of one percent (0.001) to one percent (0.01) of the principal amount will have a fiscal impact on municipalities; however, the degree of that impact would depend on the future borrowing of each municipality.

ANALYSIS AND BACKGROUND

English Learners (EL)

The article changes the categorical for English Learners (EL) to multilingual learners (MLL); however, the statute does not provide a definition for “multilingual learner”. According to Pearson, a British-owned education publishing company, “multilingual learners” are learning the language of instruction at the same time they are learning rigorous academic content. This definition may expand the categorical to include dual language programs where native English speakers are learning French or Spanish. This section does not have a direct fiscal impact; however, the FY2021 Budget provides $7.5 million in general revenue for the EL categorical, in increase of $2.5 million over the FY2020 Budget as Enacted.

The article provides new language clarifying that the funds may be used to:

- Increase the number of bilingual programs,
- Increase the capacity of multilingual educators and English to Speakers of Other Languages (ESOL) certified educators,
- Support ongoing training to retain multilingual and ESOL certified educators,
- Increase the knowledge of building administrators about MLL students and how to better support them,
- Provide training for general education teachers to become certified in ESOL, and
- Provide training for instructional coaches and personnel supporting differently-abled students to serve multilingual students.

Analyst Note: The article repeals the language intended to prevent the displacement of local funds. The article does not provide a definition of “differently-abled”.

Categorical Aid for School Resource Officers Expanded to Mental Health Professionals

The article expands the state support for school resource officers to include mental health professionals. Pursuant to the article, in FY2021 a district would be reimbursed for one-half of the cost of salaries and benefits for additional mental health professionals provided the district commits to funding the position beyond FY2021 in the absence of state funds. The categorical sunsets after FY2021, so no additional funding is available. This section does not have a direct fiscal impact; however, the FY2021 Budget provides $1.0 million in general revenue, consistent with the FY2020 Budget as Enacted. FY2020 expenditures are projected at $325,000.

Districts may not eliminate current mental health professional positions to create new ones, and if the demand for the funds is greater than the amount appropriated, the Department will prioritize distribution based on, but not limited to, current mental health capacity in the school and demonstrated need.

Analyst Note: It is unclear whether priority would be given to school resource officer support or mental health professional support should the demand exceed the available funds, or what would happen should a district fail to fund a positions beyond FY2021.

"Mental health professionals" include, but are not limited to, student assistance counselors, school counselors, social workers, and school psychologists.

Prekindergarten Seats in the Funding Formula

Beginning in FY2021, the article requires the Department of Elementary and Secondary Education to include students enrolled in approved prekindergarten classrooms in the average daily membership. From the statutory language, however, it is unclear what is meant by "approved" or "average daily membership", as no definitions are provided. A broad interpretation could mean that any student attending a licensed prekindergarten program in Rhode Island would be included in the average daily membership (ADM) for the district of residence. The ADM would then be used to calculate the foundation aid for the district, the local tuition for charter and state schools, and the state share ratio. Funding the prekindergarten seats through the funding formula is projected to save $251,095 relative to the amount of funding provided to these districts through the categorical program in FY2020. This "savings" will be reinvested into the program in addition to the $4.8 million added to the categorical in FY2021.

Impact of Funding Prekindergarten through Funding Formula

District	Seats	FY2021 Share Ratio	FY2020 Early Childhood Catergorical	FY2021 Governor Formula Aid	*Difference*
Central Falls	90	94.6%	$927,602	$1,202,128	$274,526
Cranston	18	56.1%	170,133	122,641	(47,492)
East Providence	160	57.1%	1,525,518	1,130,197	(395,321)
Johnston	18	47.2%	190,000	103,248	(86,752)
Pawtucket	72	80.4%	765,170	769,114	3,944
Total	**358**		**$3,578,423**	**$3,327,328**	**($251,095)**

The article also amends the prekindergarten categorical to delete the power of the General Assembly to determine the amount of funding, and instead leaves the Department to recommend criteria for the allocation of funds consistent with the RIGL 16-87, the Rhode Island Prekindergarten Education Act.

Analyst Note: It is unclear how funding would be determined since the Department is only empowered to recommend criteria for the allocation of funds. This amendment may thereby create an entitlement program for prekindergarten.

Education of Very Young Children

The article amends RIGL 16-48, "Educational Services to Very Young Children", to apply to children between the ages of four and six years of age, instead of two years eight months and six years of age. The article allows any person or association desiring "High Quality Comprehensive Approval" to apply for such approval and to receive approval upon satisfying the standards established by the Commissioner of Elementary and Secondary Education. The approval would be valid for three years, unless revoked by the Commissioner for cause. The article also allows for the accreditation of classrooms, instead of schools.

TOC

Analyst Note: It is unclear what impact this article may have on educational programs for three-year olds, while DHS will continue to license childcare facilities, it appears RIDE will no longer be authorized to approve educational services for this age group. Furthermore, the article may eliminate the authority of the Commissioner of Elementary and Secondary Education to approve applications for preschool programs not meeting the high-quality standards by deleting language referring to the establishment and maintenance of a program. The article does not provide a definition of "High Quality Comprehensive Approval" for this chapter; however, high quality elements are provided in the Rhode Island Prekindergarten Act.

This amendment appears to be in conflict with the Council on Elementary and Secondary Education's regulations on Comprehensive Early Childhood Education (CECE) programs Tier 1 – Operational Approval, which applies to private early childhood education programs serving children between the ages of three and six.

Rhode Island Prekindergarten Act

In FY2020, Rhode Island supports 1,420 high-quality prekindergarten seats through the Rhode Island Prekindergarten Education Act (Act), at an average cost of $11,700, including state, federal, and Head Start funds. This includes 358 seats in public schools, 414 in child care centers, and 648 in Head Start programs. The target for universal access, as proposed by the article, is 7,000 seats.

State general revenue funding of $14.9 million in FY2020, is provided through the early childhood categorical as part of the broader education aid. In FY2021, the Budget provides an additional $1.4 million in categorical aid and $3.3 through the funding formula to support the 358 seats located in district schools. With $3.0 million funding from a new federal preschool development grant, the FY2021 Budget is projected support 750 new seats.

Analyst Note: The new federal funding is part of a recently awarded three-year, $27.0 million federal Preschool Development Grant Birth -5 Renewal Grant. This grant is a renewal of the one-year $4.2 million planning grant the State received in 2019. The grant is projected to support 300 seats for three-years. It is unclear how those seats will be supported in FY2024. In FY2020, $5.8 million in general revenue was added to replace expired federal funding for existing seats. Based on information received from DHS, the federal grant requires a $3.0 million state match.

In addition, the federal funds are not currently in the proposed budget, however, the Office of Management and Budget has indicated that an amendment will be submitted.

The article requires that the Department of Elementary and Secondary Education (Department) recommend criteria for the allocation of early childhood program funds consistent with the Act, instead of as determined by the General Assembly. The Act does not provide a clear plan for the distribution of funding. This article seeks to expand high-quality prekindergarten programs to all communities in the State until every family who wants a seat has one. The article considers universal access achieved when 70.0 percent of four-year-olds are enrolled in high-quality prekindergarten programs. The 70.0 percent threshold is based on the experience in other states and allows for families to choose not to enroll their four-year olds in a prekindergarten program, since participation is voluntary.

Distribution of Funds*:* Article 10 shifts the authority to determine the distribution of funds from the General Assembly to the Rhode Island Prekindergarten Education Act. The Act does not delineate a plan for the distribution of funding, other than providing that the Department of Elementary and Secondary Education and the Department of Human Services will ensure that, during the request for proposal process, priority points will be given to communities serving a higher proportion of low-income children. The article further ensures that, until universal access is achieved in a community, the state prekindergarten lottery process will include an algorithm to match enrollment to the socioeconomic distribution of the community.

Analyst Note: Ensuring that additional priority points are awarded to programs in communities with a higher concentration of low-income children will not necessarily prioritize low-income seats. There does not appear to be any language in the article to drive the available funds to the low-income children where those funds will have the greatest return on investment.

Prekindergarten Facilities*:* The article requires the Department of Elementary and Secondary Education and the Department of Human Services to work with other departments and private philanthropy to research and establish programs to expand access to high-quality prekindergarten facilities.

High Quality Elements: The Department of Elementary and Secondary Education is authorized to promulgate regulations for the implementation of high-quality, universal prekindergarten. The standards to be addressed within the regulations include such items as teacher education and certification, class size and staff ratios, learning time and standards, curriculum, support for students with special needs, support for dual English Language Learners, professional development, child assessments, and observations to improve practice.

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

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

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

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

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

Rhode Island Early Childhood Care and Education Capital Fund (Capital Fund) Act

Section 8 of the article establishes the new Capital Fund to expand quality early learning and childhood care facilities by capitalizing on existing spaces, facilitating innovative partnerships, and providing technical support to building a pipeline of new construction projects. The Department of Human Services (DHS), with the help of a community partner organization, will administer the program through a competitive grant process for programs that are state licensed to provide child care and serve children from birth through age six. This model is based on the Early Education and Out of School Time (EEOST) Capital fund in Massachusetts.

Eligibility for Funding: An "eligible organization" includes child care providers that have demonstrated a commitment to providing early childhood care for low-income families with a public subsidy. An "eligible facility" is a building, structure, or site that is, or will be, owned, leased, or otherwise used by an eligible organization licensed by DHS to provide child care. Municipally-owned buildings are only eligible if there is a single-purpose space for licensed early childhood care.

Analyst Note: Funding for the program would include general obligation bond proceeds, currently proposed for the November 2020 referendum, and other amounts appropriated for the program. Consequently, the program involves the use of public funds to make capital improvements to privately-owned facilities. Additional information received from the Office of Management and Budget indicates that DHS would require a lease term of at least 15 years; however, this requirement is not in the statutory language nor would it appear to apply to facilities "otherwise used" by an eligible organization. Furthermore, it is unclear how a 15-year lease term would protect the State's capital investment should the lease be broken. The article does provide that DHS will establish procedures to safeguard the expenditure of public funds.

Program Funding: The article authorized DHS to create a restricted receipt account that is exempt from indirect cost recovery; however, the account is not listed in RIGL 35-4-27 as an exempt account. The program may be funded from the proceeds of a general obligation bond, as proposed for the November 2020 referendum, as well as appropriated funds and charitable donations. The funds will be distributed through a competitive process managed by DHS, with administrative support from a community partner organization.

The program funds may be used to pay for grants to eligible organizations, technical assistance related to capital planning and application assistance for early childhood care and education providers, as well as costs associated with the administration of the program.

Analyst Note: The use of bond proceeds to cover program costs inflates those costs to include debt service. Furthermore, the article does not provide a definition or limitation of "costs associated with the administration of the program."

Reporting: The article requires DHS to publish a report on the status of the program implementation, as well as an accounting of the use of funds including a list of the organization name, city or town in which the facility is located, a project description, and the grant amount for each recipient. In addition, the report will track the impact of each completed project in terms of the number and quality of current or additional classrooms and seats supported. The report is due 90 days after the end of the fiscal year with a copy provided to the Governor, Speaker of the House of Representatives, and the President of the Senate.

School Building Authority (SBA)

Under current law, the Rhode Island Health and Educational Building Corporation (RIHEBC) supports "one-time or limited" personnel and operating costs of the SBA through revenue from levying a fee of one tenth of one percent (0.001) of the principal amount on municipal bonds for school construction. The article deletes the "one-time or limited" qualification making RIHEBC responsible for all the expenses of the SBA and expands the funds that can be used to include investment income generated by state and municipal funds held in trust by the Corporation. In addition, the article raises the cap on the fee charged to municipalities from one tenth of one percent (0.001) to one percent (0.01) of the principal amount.

The Budget requires RIHEBC to transfer $1.0 million to the state controller by June 30, 2021, in addition to providing $1.0 million in personnel expenses for the School Building Authority (SBA). In FY2018, RIHEBC was required to transfer $6.0 million to the State Controller. In FY2019, RIHEBC supported $737,735 in SBA personnel expenses, and in FY2020 RIHEBC is projected to provide $775,492.

Rhode Island Promise Scholarship

The article eliminates the sunset on the Rhode Island Promise Scholarship to extend the program beyond the high school graduating class of 2020. The article also extends the program to include certificate programs, in addition to an associate's degree. "Certificate" is defined as any certificate program with labor market value as defined by the Postsecondary Commissioner. New language specifies that grants received from the Department of Children, Youth and Families' Higher Education Opportunity Incentive program or the College Crusade would not have to cover tuition and mandatory fees before the awarding of any Promise Scholarship grant monies; thereby allowing the use of these grants for other expenses.

Wavemaker Fellowship

The article expands the RI Wavemaker Fellowship to include "high-demand" STEM teachers, and limits the awards to eligible STEM teachers to no more than 100 awards and no more than 25.0 percent of the awards in a given calendar year. The Wavemaker Fellowship is a competitive student loan reimbursement program for college and university graduates who take employment in science, technology, engineering, and mathematics (STEM) fields in Rhode Island. The program provides Wavemaker Fellows with refundable personal income tax credits that can be used to offset their annual student loan payments for up to 4 years. The amount of the tax credit depends upon the degree earned by the taxpayer, i.e. $1,000 for an associate's degree and up to $6,000 for a graduate or post-graduate degree.

The article defines an "eligible high-demand STEM teacher" as a full-time content area teacher employed by a public elementary or secondary school who satisfies the criteria proposed by the Commissioner of Education, in consultation with the Commerce Corporation, and approved by the Commerce Corporation.

The Commerce Corporation will establish the guidelines ensuring the cap on the proportion of awards to STEM teachers, in consultation with the Rhode Island Department of Education. The article also changes the credits awarded to recipients to education loan repayment expenses paid by the taxpayer, instead of incurred, and adds a definition for "business".

The article extends the sunset of the RI Wavemaker Fellowship program for three more years to December 31, 2023.

Since the statute limits the commitment of awards to available funds, the expanded eligibility does not have a direct fiscal impact; however, the Budget provides an increase of $872,000 in Wavemaker Fellowship funding ($2.1 million total) in FY2021, and $1.2 million in FY2020.

Article 11: Relating to Economic Development

Article 11 introduces new or amends existing economic development incentives. The changes include:

- **Site Readiness Program:** Creating a new Site Readiness Program within the Rhode Island Commerce Corporation to develop pad-ready sites and other economic development projects in partnership with municipalities.
- **Rebuild RI:** Raising the maximum aggregate number of Rebuild RI credits from $210.0 million to $250.0 million, an increase of 19.0 percent. The article also reduces the per project limit of 20.0 percent of the total project cost down to 15.0 percent, with the exception of those projects that involve historic structures or include infrastructure investment.
- **Reauthorization of Incentives:** Extending the authorization of eleven incentives for another three years by pushing their sunsets from December 31, 2020, to December 31, 2023. The article also permanently authorizes the Small Business Assistance Program.

FISCAL IMPACT

The FY2021 Budget includes $390,000 in general revenue to fund the work of five RI Commerce Corporation "fellows" within the Site Readiness Program. Article 5 proposes bond referenda for industrial site development that would make $21.5 million available to the program. The Budget also provides $22.5 million for the Rebuild RI program, $12.5 million more than the FY2020 enacted level.

ANALYSIS AND BACKGROUND

New Site Readiness Program

Article 11 establishes a new Site Readiness Program (SRP) within the Rhode Island Commerce Corporation (CommerceRI) in partnership with the Quonset Development Corporation (QDC) to increase the amount of vetted, permitted, and utility-ready sites available for economic development projects across Rhode Island.

According to the Executive Office of Commerce (EOC), developers face challenges at the local level as a result of limited municipal resources. Municipal capacity varies tremendously across the State in terms of planning and land-use initiatives, building and permitting review, and comprehensive zoning. The new Site Readiness Program is proposed as method of assisting municipalities in overcoming barriers to creating "pad-ready" sites.

Administration and Staff: The Site Readiness Program is to be administered by CommerceRI through site readiness subcommittees of CommerceRI's board of directors. In addition to board members, a subcommittee shall include a representative from the RI League of Cities and Towns and a representative selected by the municipal government of the participating community.

Analyst Note: According to EOC, existing staff will administer the program with the assistance of five CommerceRI "fellows" that will be "embedded" in participating municipalities. These positions will be employed by CommerceRI but will not be considered state employees. EOC indicates that personnel costs for the fellows will be shared equally by CommerceRI and the participating municipality. EOC also indicates that there is $390,000 budgeted in the Site Readiness Program to support its share of the cost of these fellows. There is not, however, currently a budget line sequence, however, associated with the program in EOC's budget.

Authority and Functions: Article 11 provides the Commerce Corporation with extensive powers to carry out the SRP mission. These powers include tools to build local capacity, the authority to receive and perform any local regulatory functions related to parcel development granted to it by a willing municipality, and investment authority that supports site preparation.

- **Local Capacity Building:** The Commerce Corporation is authorized to provide training and assistance to municipalities and/or owners of real estate on best practices that support economic development. This includes improving local capacity to develop an inventory of vetted pad-ready sites in the State and to establish the capacity to develop, manage, and market these lands.

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

- **Investments in Site Preparation:** Article 5 proposes a bond referenda for industrial site development that would make $21.5 million available to the SRP for acquiring parcels and preparing pad-ready site.

- **Powers and Duties:** Article 11 authorizes CommerceRI to develop permitting and pre-permitting processes at the State level that may be used in partnership with municipalities in preparing sites for development. Pursuant to the article, CommerceRI, through and with the Department of Business Regulation, may issue permits, licenses, and other authorizations necessary to carry out the program. In addition to these State-level powers, CommerceRI is also authorized to assume and perform certain local powers related to economic development that are delegated to it by willing municipalities.

  These powers include planning, constructing, rehabilitating, improving, or maintaining any parcels, tracts, or projects owned by or conveyed to the SRP. Parcels and projects would be exempt from any municipal zoning and land use ordinances, codes, plans, and regulations, as granted by the municipality. A municipality may not, except as otherwise agreed to within the SRP, modify or change plans, architectural drawings, or specifications related to the project or require approvals, permits, or certificates from either the municipality or a political subdivision thereof. In a city or town in which a project is completed, the municipality must provide typical services, such as police, fire, and sanitation to the project site. The authority provided to the SRP under Article 11 does not override the existing authority of the Department of Environmental Management or the Coastal Resources Management Council.

Quonset Development Corporation Expansion: Section 1 of the article authorizes the Quonset Development Corporation (QDC) to act in the place of CommerceRI under the SRP for those municipalities that request the QDC's services and expertise related to site development.

The QDC is a quasi-public subsidiary of CommerceRI responsible for the comprehensive development and management of the Quonset Business Park in North Kingstown. The 3,212 acre park is home to 203 companies and approximately 12,000 jobs. The QDC is governed by an eleven-member board of directors and has a professional staff of approximately 50.0 FTEs. The QDC has extensive authority act as a real estate development and management firm.

Tax Stabilization Incentive: Under Article 11, CommerceRI may recommend certain qualifying projects for special consideration under the State's tax stabilization incentive (TSI). Under current law, qualifying municipalities may receive up to 10.0 percent of foregone property tax revenue lost due to any tax stabilization agreement made by the municipality with qualifying project developers. For qualifying projects, CommerceRI may reimburse communities up to an additional 15.0 percent, for a maximum of 25.0 percent of foregone revenues. This proposal is intended to provide CommerceRI with the ability to offer municipalities greater incentives to advance economic development in their communities. The article limits the number of enhanced TSI projects that may be certified under this provision to five per calendar year.

Analyst Note: Although Article 11 indicates that communities would formally apply for an enhanced TSI award and that such an award is subject to available appropriations, it does not indicate the criteria to be used to evaluate application or describe the review process. This presumably would be left to Commerce to determine.

TSI awards typically span many years, partially reimbursing municipalities' foregone revenue well into the out-years. Authorizing up to five enhanced TSI per year, along with ongoing approvals of regular TSI awards, may lead to a time *in the out-years when the State has a large number of TSI obligations. The article language limiting the enhanced TSI awards to funds appropriated specifically for the program is similar to limiting language for the regular TSI under RIGL 42-64.22-8. It should be noted however that a loophole exists that permits regular TSI awards to obtain funding absent appropriation. Under the Rebuild RI Tax Credit Program statutes (42-64.20) Commerce is allowed to pledge Rebuild RI funding to TSI projects awarded under 42.64.22. It is not clear if this loophole would be applicable to the enhanced TSI awards authorized under Article 11.*

Rebuild Rhode Island Tax Credit Program Changes

Article 11 makes several changes to the Rebuild RI tax credit program. Rebuild RI uses both tax credit and sales tax exemption incentives to promote investment in real estate development for commercial and/or residential use across the State. When the Rebuild RI tax credit program was first established by the General Assembly, several program limits were instituted to prevent awarded credits from outpacing general revenues and to ensure program performance. These limits included a $150.0 million cap on the total amount of credits permitted to be issued and an initial sunset date of December 31, 2018. These limits ensured that the General Assembly had an opportunity to evaluate the effectiveness of the program over time and, based on its analysis, either reauthorize the program or curtail it.

Additional limits have since been placed on the program. In 2019, the General Assembly modified the total program cap by increasing it from $150.0 million to $210.0 million. However, the cap now applies to the combined total of tax credits and sales tax exemptions. The per-project cap was also modified as it related to the potential Fane Tower project in the I-195 Redevelopment District. In this instance, the cap was raised to $25.0 million, including credits and exemptions, and the project does not count against the overall program cap. The sunset date for Rebuild RI has twice been extended, most recently to December 31, 2020.

Since the program's inception, CommerceRI has awarded $111.1 million in Rebuild RI tax credits and $43.1 million in sales tax exemptions across 34 projects, for a combined total of $154.2 million, or 73.4 percent of the $210.0 million program cap.

Article 11 makes several changes to the Rebuild RI program limits.

- **Program Cap Increase:** Under current law, the combined total amount of tax credits and sales tax exemptions that may be issued under the Rebuild RI program is $210.0 million. Article 11 raises that cap to $250.0 million.
- **Project Cap Reduction:** The article also reduces the per project limit of 20.0 percent of the total project cost down to 15.0 percent, with the exception of those projects that involve historic structures or include infrastructure investment. These latter types of projects are also eligible for an additional 10.0 percent of projects costs, for a maximum of 30.0 percent, if they meet certain criteria such as if the project includes the adaptive reuse of historic structures, is aimed at an officially prioritized industry, is located in a transit-oriented development area, and other similar economic objectives.
- **Sunset Extension:** The article extends the Rebuild RI sunset from December 31, 2020, to December 31, 2023.

Reauthorization of Incentives

In addition to Rebuild RI, Article 11 reauthorizes the following incentives for another three years:

- Rhode Island Tax Increment Financing
- Tax Stabilization Incentive
- First Wave Closing Fund
- I-195 Redevelopment Project Fund
- Small Business Assistance Fund

- Main Street Rhode Island Streetscape Improvement Fund
- Innovation Initiative
- Industry Cluster Grants
- High School, College, and Employer Partnerships
- Air Service Development Fund
- Rhode Island Qualified Jobs Incentive

These programs are currently set to expire on December 31, 2020. The General Assembly originally established a two-year authorization for these incentives, calling for a sunset date of December 31, 2018, which was extended by the FY2019 Budget as Enacted. Article 11 establishes a new sunset date of December 31, 2023.

Analyst Note: CommerceRI's Wavemaker Fellowship incentive is also currently set to expire on December 31, 2020. Article 10 extends its sunset to December 31, 2023.

Article 12: Relating to Housing

Article 12 establishes a comprehensive new framework for the development of affordable housing in Rhode Island. The article significantly modifies the governance, policy-making, and funding mechanisms available to the State to ensure sufficient affordable and workforce housing for Rhode Islanders. The changes in Article 12 are effective July 1, 2020. Specifically, the article:

- **Reorganization of Housing Policy and Coordination:** Establishes the Housing Resources Coordinating Council (HRCC), replacing the Housing Resources Commission as the principal policy, strategy, and funding organization for affordable housing in the State.
- **Dedicated Funding for Affordable and Workforce Housing:** Increases the real estate conveyance tax on the portion of real estate value over $500,000. Revenue from this increase would be used for affordable and workforce housing initiatives, including constructing new units and providing incentives to municipalities. The article also exempts affordable housing-related developments from the transfer of interest portion of the real estate conveyance tax.
- **Housing Incentives for Municipalities:** Creates a new incentive for municipalities to support and develop affordable housing by making school impact offset payments through RIHousing.

FISCAL IMPACT

Article 12 eliminates, transfers, and creates several restricted receipt accounts related to affordable housing. This includes repealing the Housing Resource Commission Fund and establishing the Housing Production Fund. The article increases the real estate conveyance tax on real estate value greater than $500,000. The Office of Revenue Analysis (ORA) estimates that this will generate $3.6 million restricted Housing Production funds in FY2021. The exemption of affordable housing transactions from the transfer portion of the real estate conveyance tax represents a loss of $36,722 loss in general revenues. The Budget also includes $200,000 to support the implementation of the new housing incentive program for municipalities and $209,911 for a Deputy Secretary for Housing and Community Development within the Executive Office of Commerce.

ANALYSIS AND BACKGROUND

Article 12 establishes a comprehensive new framework for the development of affordable housing in Rhode Island. The elements of this new framework are outlined below.

Reorganization of Housing Policy and Coordination

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

- **RIHousing:** RIHousing is Rhode Island's official State-chartered housing finance agency. Housing finance agencies vary from state-to-state, but typically are independent entities that operate under the direction of a board of directors appointed by the state's governor. They administer a wide range of affordable housing and community development programs, including providing mortgage loans. RIHousing is also charged with administering affordable housing bonds.
- **Housing Resources Commission:** Under the Housing Resources Act of 1998, the Housing Resources Commission (HRC) was established as the State's principal organization for affordable housing policy, strategy, and coordination. It is comprised of 28 members, including six State agency directors, eight community groups, several municipal planning officials, banking and professional associations, and the chair of RIHousing. The HRC is charged with developing the State's affordable housing strategic plan, setting housing standards, developing programs, and providing technical assistance to

organizations and municipalities related to housing and homelessness. The HRC receives funding for these activities from a dedicated 0.6 percent of the State's real estate conveyance tax revenue. This revenue is deposited into a Housing Resources Commission restricted receipt account called the Housing Resources Commission Fund.

- **Office of Housing and Community Development:** The Office of Housing and Community Development (OHCD) provides financial, operational support, and staffing for all housing programs administered by the Housing Resources Commission (HRC), including the State's rental assistance and homelessness programs. OHCD is also responsible for administering the federal Community Development Block Grant (CDBG) and other related programs. When the General Assembly established the Executive Office of Commerce (EOC) in 2013, it transferred the OHCD from DOA to the EOC. The OHCD is comprised of two sections. The OHCD is headed by a 1.0 Chief of Housing and Community Development.

Article 12 proposes a new method for the State to organize around housing and homelessness issues. The article repeals the Housing Resources Act of 1998 and replaces it with a new Housing and Community Development Act (HCDA). The new act is outlined below.

- **Division of Housing and Community Development (DHCD):** The Act elevates the Office of Housing and Community (OHCD) to a formal division within the Executive Office of Commerce. The new division shall administer programs pertaining to housing, housing services, and community development including services for the homeless; rental assistance; community development; disaster assistance; outreach, education, and technical assistance: and financial support to non-profits and community development organizations. DHCD is required to provide the Governor and General Assembly with annual reports on its activities and recommendations by March 1st of each year, beginning in FY2021. The Budget transfers the existing 11.0 FTE positions in the OHCD to the DHCD and provides $691,817 in general revenue and $642,348 in federal funds for personnel expenses. The Budget provides $395,192 in general revenue and $48,269 in federal funds for operating expenses in FY2021. These funding levels are consistent with the FY2020 enacted levels for the OHCD.

- **Housing Resources Coordinating Council:** The HCDA replaces the Housing Resources Commission with a new entity called the Housing Resources Coordinating Council (HRCC). The new council is created within the executive branch for the purposes of coordinating housing policies and programs across State agencies and political subdivisions in order to ensure the efficient and effective deployment of resources.

    - **Powers and Duties:** The Act authorizes the HRCC to negotiate and enter into contracts related to housing policy in the State. The article provides the HRCC with the authority to establish committees and other bodies to address housing issues and to develop state plans, policies, and programming for housing in consultation with the proposed Housing Resources Steering Committee. The article further provides that the HRCC may establish performance metrics for housing programs, promote community input into housing measures, grant or loan funds to agencies and political subdivisions for housing projects, and establish and charge fees for its services.

      Executive Director and Staff: The Housing Resources Commission is currently staffed by the OHCD and is headed by a Chief of Housing and Community Development. Currently, the chief is the ranking staff person within the EOC on housing issues. The Act authorizes a new 1.0 Deputy Chief of Staff/Policy FTE position to serve as both as a Deputy Secretary of Housing and Homelessness at Executive Office Commerce and as executive director of the HRCC. The Budget provides EOC with and $209,911 in general revenue in FY2021 to support personnel expenses for the position. According to EOC, the chief will remain as part of the staff at the DHCD.

The HRCC is authorized to hire staff and employ technical and professional consultants. The article provides that the HRCC may contract staff through memorandum of agreement with RIHousing or any other agency or political subdivision of the State with approval.

Analyst Note: The Budget provides the existing HRC with $48,075 is restricted receipt funding for salaries and benefits in FY2021. The HRCC does not have its own budget line sequence. The EOC's OHCD has a memorandum of agreement with the HRC to provide administrative and staff support to the HRC. Article 12 transfers all HRC agreements to the HRCC and all OHCD agreements to the DHCD. Presumably this means that the DHCD will staff the HRCC.

- **Membership:** Membership of the various entities addressed by Article 12 are summarized and compared in the following table:

Current	Article 12 Proposed	
Housing Resources Commission	HRSC	HRCC
DOA	EOHHS	EOHHS
DBR	Secretary of Commerce	Secretary of Commerce
Elderly Affairs	RIHousing	RIHousing
DOH	RI Continuum of Care/Agency or Political Subdivision	RI Continuum of Care/Agency or Political Subdivision
DHS	Agency or Political Subdivision Rep.	Agency or Political Subdivision Rep.
BHDDH	Agency or Political Subdivision Rep.	Agency or Political Subdivision Rep.
RIHousing	Representing Appointee†	HRSC Chair*
Attorney General	Representing Appointee†	
RI Bankers Assoc.	Representing Appointee†	
RI Mortg. Bankers Assoc.	Representing Appointee†	
RI Realtors	Representing Appointee†	
RI Homeless Coalition	Representing Appointee†	
Assoc. of Housing Ex. Dir.	Representing Appointee†	
RI Housing Network	Representing Appointee†	
Operation Stand Down	Representing Appointee†	
Community Develop Rep.	Representing Appointee†	
Lead Abatement Rep.	Representing Appointee†	
Local Planner	Representing Appointee†	
Local Building Official	Representing Appointee†	
Fair Housing Advocate		
Advocate for Minority Housing		
RI Builders Assoc.		
Insurer Rep.		
Community Develop Intermediary		
Non-profit Developer		
Senior Housing Rep.		
Citizen Rep.		
Citizen Rep.		

Serves ex-officio

Gubernatorial appointment with advice and consent of Senate

Gubernatorial appointment only

** Depending on who is selected by the Governor, this position may or may not be reviewed by the Senate*

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

- **Housing Resources Steering Committee:** Article 12 establishes a new Housing Resources Steering Committee (HRSC) for the purposes of incorporating community and stakeholder input into the long-term vision for housing policy in Rhode Island and deploying existing resources.
  - **Powers and Duties:** Pursuant to the article, the HRSC shall adopt the State's plan to end homelessness; monitor and evaluate progress of State housing programs; provide recommendations to the HRCC on policy goals, strategic plans, funding priorities, and performance metrics; and conduct research and issue reports on housing issues. The HRSC is required to provide the Governor and General Assembly with annual reports on its activities and recommendations by March 1st of each year, beginning in 2021.
  - **Membership:** Membership of the HRSC is summarized and compared in the table above.
  - **Strategic Housing Plan:** The HRSC, in conjunction with the State Planning Program, is charged with adopting a four year strategic housing plan. The plan is required to address the goals, intermediary steps, implementation activities, and standards for the production of housing in Rhode Island. The plan is to address workforce and low-income housing and to address the housing needs of older Rhode Islanders, students, individuals with disabilities, and other vulnerable populations. The plan is to be updated every four years.
- **RIHousing:** Article 12 adds the new HRCC executive director and the new chairperson of the HRSC as ex-officio, non-voting commissioners to RIHousing's Board of Commissioners, increasing the total membership to nine.

Dedicated Funding for Affordable and Workforce Housing

Article 12 increases the real estate conveyance tax on the portion of real estate value over $500,000. Revenue from this increase would be used for affordable and workforce housing initiatives, including the construction of new units and incentives to municipalities.

Housing Production Fund/HRCC Fund: Article 12 establishes two new funds related to the financing of housing programs in the State. The Housing Production Fund (HPF) is a new restricted receipt fund to be administered by RIHousing for the purposes of providing financial assistance, loans, grants, or otherwise for the planning, production, or preservation of housing opportunities in the State, including affordable workforce housing. Revenue from the proposed increase in the real estate conveyance tax authorized by Article 12 will be deposited into the HPF.

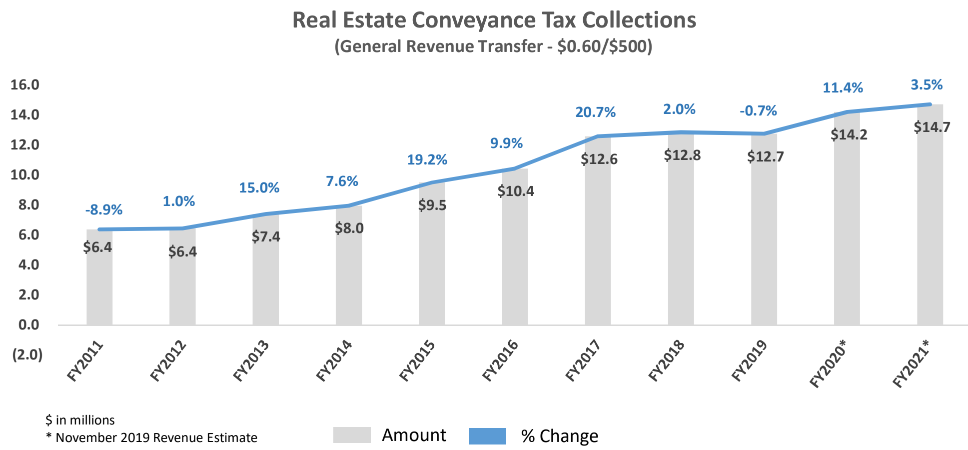
Analyst Note: Workforce housing is understood to be housing that is affordable to workers and close to their jobs. It may include both home ownership and rental housing. Workforce housing is typically defined as housing that is affordable to households earning 60.0 to 120.0 percent of the area median income ($65,226 for Rhode Island). It may also be defined as housing costs that are no more than 30.0 to 40.0 percent of income.

Article 12 also establishes a new restricted Housing Resources Coordinating Council Fund (HRCCF) that replaces the current Housing Resources Commission Fund (HRCF). The HRCCF will be used to by the HRCC to provide initiatives including housing production, lead hazard abatement, housing rental subsidies, housing retention assistance, homelessness services, and veteran services. The 0.06 percent of the State's real estate conveyance tax that currently is dedicated to the HRCF is transferred to the HRCCF.

Real Estate Conveyance Tax: Article 12 increases the State's real estate conveyance tax on the portion of real estate valued above $500,000 and dedicates the additional revenue to housing production.

The State imposes a tax on each deed, instrument, or writing by which interests in real estate are conveyed to a purchaser, and when the value of the transfer is greater than $100. The tax rate is $2.30 for each $500, equating to a 0.46 percent tax rate.

Real estate conveyance tax collections grew by 58.8 percent during the five year period from FY2014 to FY2019. Based on the November 2019 Revenue Estimating Conference's adopted estimate, the general revenue portion of the tax ($0.60/$500) is estimated to be $14.7 million in FY2021.



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

Real Estate Conveyance Tax Distribution

	Current		Article 12			
			Portion < $500K		Portion > $500K	
	Per $500	Effective Rate	Per $500	Effective Rate	Per $500	Effective Rate
State	$1.20	0.24%	$1.20	0.24%	$3.50	0.70%
General Revenue	0.60	0.12%	0.60	0.12%	0.60	0.12%
Distressed Communities	0.30	0.06%	0.30	0.06%	0.30	0.06%
Housing Resources Commission	0.30	0.06%	-	-	-	-
Housing Production Fund	-	-	-	-	2.30	0.46%
HRCC Fund	-	-	0.30	0.06%	0.30	0.06%
Local Government	1.10	0.22%	1.10	0.22%	1.10	0.22%
Total	**$2.30**	**0.46%**	**$2.30**	**0.46%**	**$4.60**	**0.92%**

Article 12 Changes: Article 12 makes several changes to the real estate conveyance tax.

- **Real Estate Conveyance Tax Increase:** Article 12 increases the real estate conveyance tax on the portion of real estate value over $500,000. The rate applied to this portion doubles from 0.46 percent to 0.92 percent. Revenue from this increase would be deposited into the HPF, to be administered by RIHousing and used for increasing housing opportunities across the State.

  The Office of Revenue Analysis (ORA) estimates that the amount this change will generate an additional $3.6 million in FY2021 based on an effective date of January 1, 2021.

Real Estate Value	Tax Liability (Current)	Tax Liability (Article 12)	*Change*
$270,000	$1,242	$1,242	*0.0%*
500,000	2,300	2,300	*0.0%*
750,000	3,450	4,600	*33.3%*
1,500,000	6,900	11,500	*66.7%*

Source: Office of Management and Budget

The FY2022 full-year estimate is $7.9 million. In determining these estimates, ORA used data from the Warren Group, a company that specializes in real estate data in the New England and New York housing markets. The data included 23,389 real estate transactions and included transactions for every city and town in Rhode Island. ORA filtered the data by price and date to identify the transactions over $500,000 that occurred on or after January 1, 2019, and applied its analysis of the tax increase to these transactions.

Analyst Note: According to ORA's methodology, the $3.6 million is based on a January 1, 2021, effective date. Section 6 of the article establishes the effective date as July 1, 2020.

- **Affordable Housing Exemption:** Firms whose main business is holding and renting real estate are defined as "acquired real estate companies" in State statute. When an acquired real estate company is sold, or the controlling interest in it is transferred, its real estate holdings are transferred as well. Prior to 2015, these real estate conveyances were not subject to the real estate conveyance tax. The 2015 General Assembly closed this loophole and subjected these transactions to the tax, based on the value of the interest being transferred.

  Affordable housing developments often involve developers and investors that meet the definition of acquired real estate companies and are therefore subject to the transfer tax upon the sale of an investor's interest. These types of projects, however, typically involve the use of federal low-income housing tax credits that incentivize investor participation and facilitate the acquisition of necessary capital. Once the investor realizes the tax benefit of the credit, they are no longer required to be part of the project and typically leave the partnership. The transfer of the investor's interest is subject to taxation even though real estate value has not changed hands. This unintended consequence of the changes made in 2015 is considered a barrier to developing affordable housing.

  Article 12 exempts these types of transactions from the real estate conveyance tax in order to reduce barriers to the development of affordable housing. This exemption is estimated to result in a general revenue loss of $36,722 in FY2021.

- **Collection Fee:** Article 12 also establishes a 2.0 percent collection fee that the State will apply to the municipal portion of the real estate conveyance tax revenue distribution. Most real estate conveyance taxes are collected by municipalities and, therefore, will not be subject to this fee. The State collects the tax on acquired real estate company transfers. Revenue from these transactions will be subject to the fee prior to its distribution to municipalities. Because there are relatively few of these transactions each year, the Budget does not assume a fiscal impact for this fee in FY2021.

Analyst Note: The 2.0 percent collection fee is consistent with the treatment of the State's hotel tax and meals and beverage taxes included in Article 8.

Housing Incentives for Municipalities

Article 12 authorizes a new program designed to encourage municipalities to establish new overlay zoning districts to promote affordable housing production. Article 12 provides a financial incentive for municipalities to participate by providing payments to offset the additional costs of educating students living in new affordable housing districts. The Budget includes $200,000 in restricted receipt Housing Production Funds for the school offset payment portion of the incentive program in FY2021.

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

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

Housing Incentive Districts: Municipalities are encouraged to establish special overlay zones in locations that - by virtue of their infrastructure, existing underutilized facilities, proximity to public transit centers and concentrated development - are determined by the HRCC to be suitable as housing incentive districts. A housing incentive district under Article 12 is intended to encourage residential development and must permit minimum residential uses. The district may accommodate uses complimentary to residential use; however, the majority of lots must be dedicated to housing. Although the districts may adopt zoning that encourages residential development, Article 12 does not infringe upon a municipality's zoning and permitting authority.

School Impact Offset Payments: Article 12 establishes a school impact offset payment program. The program is based on a Massachusetts program known as 40S. In Massachusetts, eligible communities are reimbursed for any net cost of educating students living in new housing in a designated smart growth district. The reimbursement is equal to the cost of educating students living in new housing in a smart growth district minus the percentage of new revenues from the district that would otherwise be devoted to educational costs and any increase in state educational aid resulting from students living in new housing in the district.

Article 12 defines school impact offset payments as payments to a city or town to help offset increased municipal costs of educating a student attending a school in the town that lives in newly constructed housing that would not otherwise have been built absent the housing incentive district zoning. The article charges the HRCC with developing a framework for the school impact offset payment component of the new incentive program, including the amount and method of payment. Article 12 is unclear regarding the duration of payment, whether they are transitional or permanent. The offset payments are to be made out of the new HRCCF It also authorizes identifies RIHousing to make the payments.

Article 13: Relating to State Controlled Adult Use Marijuana

Article 13 establishes a state-controlled adult-use marijuana market, increasing restricted receipts by $26.0 million in FY2021. Specifically, the article:

- Authorizes the Office of Cannabis Regulation to notify law enforcement when there is a reasonable belief that a primary caregiver is not in compliance with laws and regulations.
- Establishes the Adult-Use of Marijuana Act and the Marijuana Regulation, Control, and Revenue Act to provide a framework for the state-controlled market.

FISCAL IMPACT

The State anticipates sales would begin in March 2021. The partial year of sales would result in a restricted receipt increase of $26.0 million in FY2021, based on the assumption that 33.0 percent of the market will have been realized. The State would receive all fee revenues, totaling $699,000 in FY2021. After accounting for expenditures related to the adult-use marijuana market, the estimated transfer to the general fund is $21.8 million in FY2021.

The FY2022 estimated impact assumes there will be a 20.0 percent decrease in the retail price of marijuana and that the market be fully realized by the start of FY2022. These assumptions increase adult-use retail sale profits by 50.4 percent in FY2022. There are no tax revenues assumed in the Budget for adult-use marijuana, as sales are tax exempt. The fiscal impact of Article 13 is summarized in the following table:

Article 13 Net Impact

Initiative	FY2021	FY2022
Adult-Use Retail Sale Profits	$26,018,679	$52,483,731
Fee Revenues	699,000	-
Expenditures	(4,888,172)	(12,894,739)
Anticipated Transfer to General Fund	**$21,829,507**	**$39,588,992**

ANALYSIS AND BACKGROUND

Medical Marijuana: The article expands the enforcement authority of the Office of Cannabis Regulation (OCR) within the Department of Business Regulation (DBR). OCR would be authorized to notify law enforcement when there is a reasonable belief that a primary caregiver is not in compliance with plant tag requirements, possession limits and plant limits. The changes to medical marijuana are not expected to have a fiscal impact.

Adult-Use Marijuana: The article legalizes the adult-use of marijuana and authorizes the OCR to oversee the proposed state-controlled adult-use market. The article would allow for individuals aged twenty-one or older to purchase up to one ounce of marijuana. Up to five ounces of marijuana can be in a home if securely stored and there is at least one individual over the age of twenty-one. Homes with at least two individuals aged twenty-one or older can securely store up to ten ounces of marijuana in their home. Possession of marijuana in a motor vehicle must remain sealed, unused, and in the original packaging.

The Office of Management and Budget (OMB) completed an analysis to estimate the retail sales in the state. Using self-reported marijuana-use rates, OMB took the number of self-reported marijuana users in the State and adjusted for expected underreporting and the number of medical marijuana patients in the State.

The state-controlled adult-use marijuana market is modeled after New Hampshire’s state-controlled liquor market. State-controlled markets lower prices and attract additional consumers. A study found that liquor prices were 89.0 percent of the prices in markets that were not state-controlled. OMB used this information to estimate the impact that a state-controlled model will have on retail prices and consumer demand. Adjusting for under-reporting of marijuana-use, medical marijuana patients, and the impact of a state-controlled adult-use marijuana market, OMB found that Rhode Island can anticipate 176,388 consumers in the adult-use market.

To estimate the total sales annually, OMB calculated used average sales per user in Colorado and Washington. To account for the proposed 50.0 percent potency limit, they analyzed the potency of products sold in Colorado. The data from Colorado suggests that potency limits would decrease sales and production by 13.7 percent. Nevada is currently the only other state that limits the potency of adult-use marijuana, but a number of states are considering potency limitations as potency continues to grow in both legal and illegal markets around the world.

A state-controlled model would allow the State to provide lower prices for the retail sale of marijuana, as New Hampshire has done with state-controlled liquor sales. Lower prices are expected to attract consumers away from the black market and allow the State to be competitive with neighboring states. OMB estimated the impact a state-controlled market would have on product pricing and adjusted accordingly. When including adjustments from the potency limits and the impact of a state-controlled market, the State can anticipate $209.6 million in total sales annually in the adult-use market.

In Connecticut, the Governor included legalization of marijuana in their budget. Massachusetts passed legalization in 2016 and launched the retail sale of marijuana in 2018. There are three marijuana retail stores within approximately ten miles of the Rhode Island border, including one Fall River location within 0.1 miles of the Rhode Island border.

Prohibited Activities and Fines: The article prohibits specific activities and limits the amount of marijuana an adult may possess. If an individual or entity possesses marijuana plants without a cultivator license or medical marijuana plant tags, they are subject to forfeiture and fines based on the number of plants in possession. Fines range from $2,000 to $5,000 per plant and anyone possessing more than 20 plants is subject to a felony conviction. Adults over the possession weight limits would be penalized $2,000 per ounce over the limit and would be required to forfeit the marijuana.

Prisoners are not permitted to possess marijuana, and marijuana is not permitted in any jail, detention or correctional facilities. An individual who smokes or vaporizes marijuana in public places or on the premises of certain housing facilities would subject to a $150 fine per violation, in addition to any fines by the municipality where the violation occurred.

The article does not exempt marijuana use when using marijuana could result in negligence or professional malpractice. The article also prohibits the use of marijuana on school grounds, school buses or other forms of public transportation, drug treatment facilities, public places and any place where smoke may affect children. Employers would not be required to accommodate employee marijuana use and may implement policies prohibiting the use and possession of marijuana in the workplace. Landlords also may restrict or ban the distribution, transfer, or use of marijuana.

Individuals or entities that distribute or sell marijuana to a minor would be subject to a $10,000 fine. In addition, if the individual is at least three years older than the minor, the person is subject to a felony conviction. The article authorizes the OCR to complete compliance checks and statewide purchase surveys to ensure compliance with minimum age requirements. Penalties were excluded from revenue estimates.

Adult-Use Marijuana Fund: The article establishes the Adult-Use Marijuana Fund as a restricted receipt account exempt from the indirect cost recovery provision of RIGL 35-4-27. The allocation for net adult-use retail marijuana revenue would be as follows: 61.0 percent of the funds to the State, 10.0 percent to municipalities, and 29.0 percent to the contractor(s) operating on the State's behalf.

The article allocates $4.9 million in funding from the fund for expenditures related to adult-use marijuana program administration. First-year expenditures include additional training and resources for public safety departments, public health monitoring and surveillance, licensing and regulating of adult-use marijuana facilities, and funding for substance use disorder prevention.

Article 13 FY2021 Expenditures

Agency	Restricted Receipt
Business Regulation	$3,216,792
Food Safety and Staffing	641,536
BHDDH	529,844
Public Safety	500,000
Total Agency Expenditures	**$4,888,172**

The article would require the remaining balance be transferred to the General Fund from the restricted receipt account on a monthly basis. In FY2021 the total anticipated transfer is $21.1 million.

Municipalities: Municipalities would have the opportunity to limit or ban any or all marijuana-related licenses through a referendum completed on or by November 3, 2020. All municipalities would receive 25.0 percent of the municipality allocation, $27,342 per municipality in FY2021. The remaining distribution would be based on volume; 25.0 percent of the municipal allocation would be based on license volume (with retail locations weighted double all other licenses), and the remaining 50.0 percent would be allocated based on sales volume. In FY2022, the first full year of retail sales, $8.6 million would be available for municipality distribution. Municipalities may also receive an impact fee from new licensees to offset or reimburse actual, direct costs, and expenses that the municipality incurs during the first three months of operation.

FY2021 Article 13 Municipality Distribution

Distribution	FY2021	FY2022
Sales Volume (50%)	$2,132,679	$4,301,945
License Volume (25%)	1,066,339	2,150,973
All Municipalities (25%)	1,066,339	2,150,973
Total	**$4,265,357**	**$8,603,890**

Community Equity and Reinvestment Council: The article establishes the Community Equity and Reinvestment Council to advocate for social equity and community reinvestment. The Governor would appoint eleven members with expertise in areas such as community reinvestment, cannabis economics, cannabis reform and policy, criminal justice, social equity, diversity and inclusion, and business and employment opportunities. The Council members would be appointed by the Governor, without the advice and consent of the State Senate, to serve without compensation. The Council would be tasked with collecting and reviewing data, providing recommendations for the use of funds, and conducting public meetings. The Council serves as an advisory committee and does not have authority to allocate funds.

Public Safety: The article allows the testimony of certified drug recognition experts as evidence in cases of driving under the influence of drugs or alcohol and allows for the chemical analysis of saliva. The article amends RIGL 37-27-2.1 to add saliva to the list of chemical tests that drivers are deemed to have given consent. The Department of Public Safety and municipal police departments would require additional resources to train officers on recognizing individuals who are impaired by marijuana. The Department of Public Safety would receive $500,000 in funding for training and operational costs associated with the adult-use marijuana program.

License and Application Fees: The article establishes fees associated with applying for and obtaining licenses for cultivators, processors, contractors, and employees who work in the marijuana industry. Current medical marijuana cultivators may apply for and obtain adult-use cultivator licenses so long as it will not impact supplies in the medical marijuana market. The new licenses established are specifically for the adult-use marijuana market and would generate $699,000 in FY2021. Licenses would require renewal every three years. The OCR would have regulatory authority to set fees through the promulgation of rules and regulations and would be responsible for licensing marijuana contractors, processors, cultivators, and employees who work in the industry. The Department of Health (DOH) would be responsible for the oversight and licensing of the lab testing of marijuana and marijuana products.

FY2021 Article 13 License Revenue

License	Estimated Revenue
Cultivator	$360,000
Processors	270,000
Contractors	30,000
Key Employees	9,000
Operations Employees	30,000
License Fees	**$699,000**

- **Cultivator License:** In order to cultivate marijuana, an entity would be required to apply for and obtain a cultivator license with an anticipated license fee of $5,000. The cultivator license fee is based on the cultivator's size and scope of marijuana growth, ranging from $5,000 to $80,000, the same as the medical marijuana cultivator license. OMB estimates that OCR would approve 72 applications, generating $360,000. Cultivators are prohibited from manufacturing or processing marijuana products.
- **Processors:** In order to process and produce marijuana products, a processor license with an anticipated license fee of $5000 is required. OMB estimates that OCR would approve 54 applications, generating $360,000. Processors are prohibited from cultivating marijuana.
- **Contractors:** In the state-controlled adult-use marijuana market, the State would enter into a contractual agreement with one or more contractors that would acquire marijuana and operate retail stores on behalf of the State. Contractors would be required to obtain a contractor license. The contractor license fee is expected to be $10,000 and OMB anticipates that three will be approved. Contractor license fees are projected to generate $30,000. Contractors are prohibited from cultivating or processing marijuana.
- **Employee Licenses:** OMB anticipates the fee for employee licenses would be $300 for key employees and $150 for operational employees. Employee license fees are expected to generate $39,000.

Article 14: Relating to Medical Assistance

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

- Implements adult co-pays for select services, including prescription drugs and inpatient hospital visits.
- Maintains inpatient and outpatient hospital payment rates at FY2020 levels.
- Eliminates the outpatient upper payment limit (UPL) payment.
- Increases nursing home rates by 1.0 percent on October 1, 2020.
- Transitions the State's managed care plans from to full risk arrangements by increasing monthly capitation rates.
- Increases non-emergency ambulance rates.
- Adds Medicaid coverage for perinatal doula services, which provide individual supports for expectant mothers before, during, and after birth.
- Directs EOHHS to modify rules and regulations in order to promote enrollment in RIte Share, the State's premium assistance program.
- Increases wages for direct support professionals who serve individuals with intellectual and developmental disabilities in the private, community-based system on January 1, 2021.
- Allows the Executive Office to pursue any changes in the Medicaid program which may offset State costs or improve access, quality, or effectiveness.

FISCAL IMPACT

The initiatives included in this article result in a net $9.2 million in general revenue expenditure savings ($28.9 million all funds) in FY2021. Several initiatives also impact revenue collections. The Governor's Budget accounts for a net $568,843 reduction in revenue collections from the 2.0 percent insurance premium tax and the 5.5 percent nursing home provider tax.

Analyst Note: The Governor's Budget appears to miscalculate the revenue impact from this article. The Senate Fiscal Office estimates that these initiatives will result in a net revenue loss of $778,282, an additional loss of $209,439 compared to the Governor's Budget.

ANALYSIS AND BACKGROUND

Adult Co-Pays

This article implements co-pays for adults over age 19, including for inpatient hospital visits ($3.00) and prescription drug coverage (up to $3.65), mirroring the Medicaid co-pays currently charged in Massachusetts. The article excludes adults in institutions, adults with disabilities, and pregnant women. The total amount paid by an individual shall not exceed 5.0 percent of annual countable income, and services would not be withheld due to a beneficiary's inability to cover a co-pay. The Governor's Budget assumes $4.7 million in general revenue savings ($17.8 million all funds) within the Medicaid program, offset by an additional $220,000 from general revenues ($1.0 million all funds) to support implementation costs. The Governor's Budget also assumes that the State would forego $178,014 in revenues from the 2.0 percent insurance premium tax. This proposal requires a State Plan Amendment.

The Governor's Budget assumes that the $17.8 million in Medicaid savings would result from the collection of co-pay revenue as well as a reduction in utilization.

Co-Pays Included	Utilization	Co-Pay	Co-Pay Savings	Reduced Utilization	Costs Avoided	Utilization Savings	Total Savings
Preferred Prescription Drugs	252,923	$1.00	$252,923	29,086	$29.55	$859,450	$1,112,372
Non-Preferred Prescription Drugs	2,343,721	$3.65	$8,554,581	269,528	$29.55	$7,964,134	$16,518,716
Inpatient Hospital Visits	56,759	$3.00	$170,276	N/A		N/A	$170,276
Total			**$8,977,781**			**$8,823,584**	**$17,801,364**
General Revenue			*2,363,705*			*2,314,108*	*4,677,813*

States are permitted to charge co-pays for non-emergency services, up to certain maximums set by the federal government. These maximums vary based on annual income as a proportion of the federal poverty level (FPL). Copayments may not exceed 5.0 percent of annual income.

Maximum Allowable Copayments

	< 100% FPL	101-150% FPL	> 150% FPL
Institutional care (inpatient hospital, rehabilitation, etc.)	$75.00	10% of state cost	20% of state cost
Non-institutional care (physician visits, physical therapy, etc.)	$4.00	10% of state cost	20% of state cost
Non-emergency ED use	$8.00	$8.00	up to 5% income
Prescriptions, preferred	$4.00	$4.00	$4.00
Prescriptions, non-preferred	$8.00	$8.00	20% of state cost

Source: Medicaid.gov

The co-pays included in Article 14 are well below these caps and would apply equally to all income levels. The Governor proposes co-pays of $3.00 for inpatient hospital visits; $1.00 for preferred prescription drugs that treat diabetes, high blood pressure, and high cholesterol; and $3.65 for all other prescription drugs. The article exempts family planning prescription drugs from the co-pay requirements.

According to a survey conducted by the Kaiser Family Foundation, as of January 2019, 26 states charged co-pays for inpatient hospital visits and 38 states charged co-pays for prescription drug coverage. While the specific services subject to co-pays vary by state, four of the six New England states currently charge co-pays in some form, including Maine, New Hampshire, Vermont, and Massachusetts.

The proposal is slated to begin on July 1, 2020. The Budget includes funding for 2.0 FTE positions as well as system upgrades to implement the program, offsetting the above general revenue savings by $220,000 ($1.0 million all funds). The Governor's Budget includes a net $4.5 million in general revenue savings ($16.8 million all funds) from the initiative.

Hospital Payments

Article 14 reduces general revenue payments to hospitals by $8.6 million ($24.9 million all funds) relative to the November 2019 Caseload Estimating Conference estimate by freezing hospital reimbursement rates and eliminating the outpatient upper payment limit (UPL) payment.

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

Hospital Rate Changes by Fiscal Year

Fiscal Year	Inpatient	Outpatient
FY2013	2.7%	1.9%
FY2014	0.0%	0.0%
FY2015	0.0%	0.0%
FY2016	-2.5%	-2.5%
FY2017	3.0%	1.9%
FY2018	2.4%	2.4%
FY2019	2.8%	1.8%
FY2020	7.2%	7.2%
FY2021 Gov	0.0%	0.0%

The November 2019 Caseload Estimating Conference adopted FY2021 hospital payment figures assuming cost growth of 3.7 percent for inpatient and 2.7 percent for outpatient services relative to FY2020 rates. Article 14 eliminates the inflator in FY2021 and freezes hospital rates at FY2020 levels. This would generate $7.1 million in general revenue savings ($20.3 million all funds) relative to the adopted estimate and would require a State Plan Amendment.

Although this initiative would significantly reduce expenditures, the proposal also negatively impacts revenue collections. Of the $20.3 million in estimated savings, $18.9 million would otherwise be subject to the 2.0 percent insurance gross premium tax. Therefore, by freezing hospital rates, the State would forego approximately $377,040 in revenues in FY2021 relative to the estimate adopted by the November 2019 Revenue Estimating Conference.

- **Outpatient Upper Payment Limit:** Upper Payment Limit (UPL) payments compensate hospitals for the difference between what hospitals receive for Medicaid services and what they are paid under Medicare reimbursement principles. In past fiscal years, the State has made UPL payments to hospitals, matched by federal funds, to bring its total Medicaid expenditures up to 100.0 percent of the Medicare upper payment limit. Article 14 eliminates UPL payments for outpatient hospital services in FY2021. The inpatient portion of the UPL payment was eliminated in the FY2020 Budget as Enacted.

  UPL payments are authorized, but not required, by federal law. According to EOHHS, these payments limit the State's ability to utilize federal Medicaid funds in order to drive value. The November 2019 CEC adopted estimate includes a total of $4.6 million in outpatient UPL payments in FY2021, of which $1.5 million is from general revenues. The Governor's Budget reduces expenditures by the equivalent amount.

Outpatient UPL

Hospital	FY2021 Adopted
Butler	-
Kent	467,307
Women and Infants	503,725
Care New England	**$971,032**
Bradley	-
Miriam	526,739
Newport	153,358
Rhode Island Hospital	2,150,649
Lifespan	**$2,830,746**
Roger Williams	331,194
St. Joseph's	211,401
Prospect - CharterCARE	**$542,595**
Landmark	142,564
South County	114,418
Westerly	34,665
Rehabilitation	6,382
Other	**$298,029**
Total	**$4,642,402**

Nursing Home COLA

Each October, pursuant to RIGL 40-8-19, nursing homes are to receive a cost-of-living adjustment (COLA) rate increase based on the national nursing home inflation index. The November 2019 Caseload Estimating Conference adopted FY2021 nursing home payments assuming a 3.6 percent price increase over FY2020 rates. Article 14 limits the rate increase to 1.0 percent, saving $3.4 million in general revenues ($7.5 million all funds) compared to the adopted estimate. This proposal requires a State Plan Amendment.

Nursing Facility Rate Changes by Year

Fiscal Year	Date	Adopted	Index	*Difference*
FY2014	10/1/2013	0.0%	2.9%	*-2.9%*
FY2015	10/1/2019	0.0%	3.5%	*-3.5%*
	4/1/2015	3.2%	0.0%	*3.2%*
FY2016	8/1/2015	-2.5%	0.0%	*-2.5%*
	10/1/2015	0.0%	3.2%	*-3.2%*
FY2017	10/1/2016	3.3%	3.3%	*0.0%*
FY2018	10/1/2017	0.0%	2.8%	*-2.8%*
FY2019	7/1/2018	1.5%	0.0%	*1.5%*
	10/1/2018	1.0%	2.7%	*-1.7%*
FY2020	10/1/2019	1.0%	3.0%	*-2.0%*
FY2021 Gov	10/1/2020	1.0%	3.6%	*-2.6%*

Although this initiative would significantly reduce expenditures, the proposal also negatively impacts revenue collections. Of the $7.5 million in estimated savings, $1.0 million would otherwise be subject to the 2.0 percent insurance gross premium tax and $6.5 million would otherwise be subject to the 5.5 percent nursing home provider tax. Therefore, by limiting the nursing home COLA, the State would forego approximately $376,673 in revenues in FY2021 relative to the estimate adopted by the November 2019 Revenue Estimating Conference.

Medicaid Resolution

Article 14 includes a joint resolution authorizing the Executive Office of Health and Human Services (EOHHS) to amend the Medicaid State Plan, submit formal amendments to the special terms and conditions of Rhode Island's Section 1115 Waiver, update State rules and regulations, and/or modify the terms of managed care contracts.

The annual appropriations bill typically includes a Medicaid resolution that describes reforms within the Medicaid program underlying the Governor's Budget recommendation which do not necessarily require statutory action, but rather require federal approval, regulatory changes, or substantial contract amendments. This resolution grants EOHHS the authority to undertake all actions required to realize the funding levels included in Article 1. The Medicaid resolution included in Article 14 authorizes EOHHS to submit State Plan Amendments in order to implement adult co-pays, freeze hospital rates, and limit the nursing home COLA, as noted previously. In addition:

- **MCO Full Risk:** The resolution allows EOHHS to execute contract amendments in order to transition Medicaid managed care organizations (MCOs) from risk sharing arrangement to full risk arrangements. The Governor adds $5.4 million from general revenues ($15.7 million all funds) to increase monthly capitation rates in order to enable this transition. This investment will also generate an additional $314,000 in revenues from the 2.0 percent insurance premium tax in FY2021 relative to the adopted revenue estimate.

  Each of the contracts between EOHHS and the MCOs, or health plans, calls for the State and each MCO to share in aggregate gains or losses related to the medical expenditures incurred by the MCO over the course of a contract year. These risk/gain share arrangements are set in relationship to actuarially certified capitation rates (per member per month payment rates) that combine forecasts for the costs of future experience with estimates of the risk entailed in taking on responsibility for those costs for the health plan's covered populations. In developing these rates, a range of factors are considered, including historical experience, changes in program requirements or structure, and the level of exposure to financial risk. In general, the greater the level of risk taken, the larger the premium to be paid for taking that risk. Under this proposal, the State would no longer share in the health plans' gains or losses. This would encourage the health plans to coordinate with accountable care organizations, which are in risk sharing arrangements with the MCOs as part of the State's Health System Transformation Project. According to EOHHS, this investment would incentivize the MCOs to manage costs for their populations and would enhance budget predictability in the long term.

  By transitioning the State's MCOs to full risk arrangements, the monthly capitation rates would be increased to incorporate a larger factor for risk. The Governor's Budget assumes that rates would be increased to include a 2.5 percent risk margin, compared to the current 1.5 percent margin. EOHHS projects that this would cost $15.7 million from all funds across the State's managed care programs, including $5.4 million from general revenues. The Governor's Budget includes funding, accordingly.

- **Ambulance Rates:** The resolution includes the authority to maintain non-emergency ambulance rates, which were increased in FY2020. On August 9, 2019, the State executed a contract amendment with the State's transportation broker, Medical Transportation Management (MTM), to increase non-emergency ambulance rates to match the rates paid in Massachusetts, effective from July 1, 2019, through June 30, 2020. The Governor includes $790,395 from general revenues ($2.2 million all funds) to carry this change forward to FY2021, which would require another contract amendment.

Before the rates were increased on July 1, 2019, non-emergency ambulance rates had not been increased in Rhode Island in over 25 years. The State's reimbursement rates for both basic life support (BLS) and advanced life support (ALS) had remained stagnant at $71.50 per one-way trip. The contract amendment increased rates to $147.67 for BLS ambulance services (a 111.1 percent increase) and $177.20 for ALS ambulance services (a 153.3 percent increase).

The Governor's Budget assumes that this $2.2 million investment will result in a corresponding increase in revenue collections from the 2.0 percent insurance premium tax, and includes an additional $44,349, accordingly.

- **Perinatal Doula Services:** The resolution allows EOHHS to submit a State Plan Amendment in order to add Medicaid coverage for perinatal doula services. The Governor includes $94,802 from general revenues ($226,750 all funds) to cover $850 per birth for these services. This investment would generate an additional $4,535 from the 2.0 percent insurance premium tax.

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

  Two other states, Oregon and Minnesota, currently offer Medicaid reimbursement for doula services, and Indiana recently passed legislation to include coverage. New York has also launched a pilot program in several counties to evaluate the effectiveness of covering doula services.

  The Governor's Budget assumes that 10.0 percent of Medicaid births, or 495 births, would be assisted by a doula. Studies show that doulas reduce the incidence of C-section births by approximately 40.0 percent. The Governor's Budget assumes that providing doula services would result in 67 fewer C-section births for savings of $194,000, offset by an increase of $420,750 to cover the additional cost of providing doula services. This would result in a net expenditure increase of $226,750, including $94,802 from general revenues, in FY2021.

- **RIte Share:** The resolution includes the authority for EOHHS to implement changes to the RIte Share program required pursuant to Article 20. This initiative is described in detail in Article 20; the resolution provides the authority to update regulations in order to effectuate the program changes.

- **Direct Support Professional Wage Increase:** The resolution enables an 1115 Waiver amendment to enable a wage increase for Direct Support Professionals (DSPs) who support individuals with intellectual or developmental disabilities (I/DD). Historically, I/DD service providers have struggled to recruit, train, and retain this critical workforce because they are unable to offer competitive wages. The Governor includes $1.0 million from general revenues ($2.2 million all funds) within the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) to support a wage increase on January 1, 2021. This additional funding would equate to a raise of $0.13 per hour for direct support professionals, based on a current average hourly wage of $13.18. Because other staff wages are paid as a percentage of DSP wages, this would also result in wage increases for supervisors (150.0 percent of DSP wages) and support coordinators and job developers (175.0 percent of DSP wages).

- **Federal Financing Opportunities:** The resolution allows EOHHS to pursue any changes to the Medicaid program which improve quality, access, and cost-effective delivery, so long as the changes do not have an adverse impact on beneficiaries or increase expenditures beyond appropriations for FY2021.

TOC

Article 15: Relating to Human Services

This Article makes a number of changes within the Department of Corrections; Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH); and, the Department of Human Services. Specific changes include:

- Expands medical parole within the Department of Corrections to include geriatric parole. Geriatric parole would be available to inmates whose advanced age reduces the risk they pose to the public's safety.
- Authorizes the BHDDH to distribute grants to municipalities for youth programs related to substance abuse. The grants would be funded by redirected general revenues raised from traffic violation fines.
- Changes the RI Works program to include children who are over 18 and still in high school, and amends the Income section of the RI Works program, such that the first six months of earned income received by a RI Works member, in compliance with their employment plan, shall be excluded from the family's income as it pertains to receiving cash assistance.
- Expands child care supports to include families, at or below 180.0 percent of the Federal Poverty Level, with parents enrolled at a Rhode Island institution of higher education or in a qualified training program.
- Amends the child care reimbursement rates for licensed child care centers providing care for infants/toddlers and preschool-aged children.
- Changes the work release program at the Department of Corrections such that 30.0 percent of an inmate's net salary shall be withheld from their income earned through work release. Under current law, 30.0 percent of an inmate's gross salary is withheld.

FISCAL IMPACT

Article 15:	Expenditures
Medical Parole - Geriatric Expansion	($150,000)
Youth and Substance Abuse Programs	$249,653
RI Works - Dependent Children Age Increase	$40,000
RI Works - Earned Income Disregard	$200,000
Post-Secondary Child Care Assistance	$200,000
Child Care Rates - Infant/Toddlers	$1,816,034
Child Care Rates - Preschool	$2,018,418
Work Release Inmate Earnings	$18,800
Total	**$4,392,905**

Article 15 includes an additional $4.4 million in expenditures. Of this total $4.1 million is an increase in general revenues related to substance abuse programs, expansion of post-secondary child care assistance, changes in child care reimbursement rates, and changes in inmate work release earnings. These increases are partially offset by a savings related to changes in geriatric parole. The remaining $240,000 is an increase in Temporary Assistance for Needy Families (TANF) funding related to changes in the RI Works program, which is a federally funded program.

ANALYSIS AND BACKGROUND

Medical Parole - Geriatric Expansion

The Article includes a new definition for cognitively-incapacitated inmates under medical parole. The Article also expands medical parole within the Department of Corrections to include geriatric parole.

Currently, medical parole includes inmates who are permanently physically incapacitated, and terminally or severely ill but does not include elderly inmates. Geriatric parole would be available to inmates whose advanced age reduces the risk they pose to the public's safety. All inmates above age 65, except those serving life without parole, will be eligible for geriatric parole once they have served the lesser of 10 years or 75.0 percent of their sentence, regardless of the crime committed. All parole decisions must go through the Department's Parole Board. The Department's Medical Director has identified 26 inmates that could be eligible for medical parole in FY2021, with 7 of the inmates considered highly eligible. This change is anticipated to save $150,000 in FY2021.

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

Youth and Substance Abuse Programs

The Article would allow high schools to receive grants for youth substance abuse programs. Current law does not permit BHDDH to offer grants to municipalities for high school programs, only middle school and junior high school programs. The Article also authorizes the Department to identify criteria for effective programs. The Article requires municipalities in receipt of grants to submit annual reports to BHDDH with a detailed breakdown of expenditures from the grants.

Currently, municipal grants for youth programs related to substance abuse are funded with a $30 fee assessed on all speeding violations. The Article would redirect $249,653 in general revenues raised from traffic violation fines to provide additional funding for the youth substance abuse programs in middle schools, junior high schools, and high schools.

The Article also transfers authority from the courts to BHDDH to approve drug-awareness programs required by individuals who are seventeen years old found in possession of one ounce or less of marijuana.

RI Works

RI Works Dependent Children Age Increase: Section 7 of this Article amends the definition of a dependent child within the RI Works program to allow children who turn 18 while in high school to continue receiving cash assistance regardless of their graduation date. Under current law, children may receive cash assistance if they are under 18, when they turn 18 they will only be eligible for cash assistance if they are anticipated to graduate high school before turning 19. The Office of Management and Budget anticipates an additional 10 students will remain on RI Works in FY2021, costing an additional $40,000 in TANF funds.

RI Works Earned Income Disregard: Section 8 amends RIGL 40-5.2-10, the income section of the RI Works program, such that the first six months of earned income received by a RI Works member, in compliance with their employment plan, shall be excluded from the family's income as it pertains to receiving cash assistance. This income may be excluded for six months, until the family's total gross income exceeds 185.0 percent of the Federal Poverty Level, or the family reaches the 48-month time limit, whichever is first. The Budget includes $200,000 in TANF funds to support this initiative for the second half of FY2021, a full year of this initiative would cost $400,000. The Office of Management and Budget anticipates anywhere from 13 to 75 additional families receiving RI Works benefits.

Post-Secondary Child Care Assistance

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

Child Care Rates

The article amends child care reimbursement rates for licensed, child care centers to include a base rate. The base rate will be set at the 25th percentile of the 2018 weekly market rate for infant/toddler care and halfway to the 25th percentile of the 2018 weekly market rate for preschool aged children. The maximum reimbursement rates for infant/toddler and preschool care that will be paid to licensed child care centers will be implemented in a tiered rate based on the quality rating the provider has achieved within the State's Quality Rating system. The Article also includes a weekly reimbursement rate of $146.26 for licensed, child care centers providing care to school-aged children.

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

The Department of Human Services is required to conduct an independent survey of current weekly market rates for child care in Rhode Island beginning June 30, 2021, and triennially thereafter.

Child care reimbursement rates for licensed child care centers were last altered the FY2019 Budget as Enacted. The below tables illustrate the changes in reimbursement rates for infants/toddlers and preschool-aged children.

Licensed Child Care Centers Infant/Toddler Rates	FY2019 Infant/Toddler Rates	Art. 15 Infant/Toddler Rates	Change from FY2019	
Tier 1	$198.48	$222.38	$23.90	12.0%
Tier 2	$203.32	$226.83	$23.51	11.6%
Tier 3	$218.81	$240.17	$21.36	9.8%
Tier 4	$232.37	$249.07	$16.70	7.2%
Tier 5	$257.54	$257.54	-	0.0%

** Based on FY2018 weekly rate of $193.64*

Licensed Child Care Centers Preschool Rates	FY2019 Preschool Rates	Art. 15 Preschool Rates	Change from FY2019	
Tier 1	$165.75	$176.67	$10.92	6.6%
Tier 2	$169.80	$180.53	$10.73	6.3%
Tier 3	$177.88	$193.94	$16.06	9.0%
Tier 4	$182.73	$201.99	$19.26	10.5%
Tier 5	$195.67	$212.84	$17.17	8.8%

** Based on FY2018 weekly rate of $161.71*

Work Release Inmate Earnings

The Article amends RIGL 42-56-38 such that 30.0 percent of an inmate's **net** salary will be withheld from their income earned through work release. Under current law, 30.0 percent of an inmate's **gross** salary is withheld. The Department withholds a portion of the inmates' work release earnings for room and board. The inmate may use the remaining earnings to support their family, pay court fees and fines, restitution, and other responsibilities. The Department currently has 16 inmates participating in work release with the capacity to hold up to 24 in the work release module.

The Budget includes an additional $18,000 in general revenue from this change. This increase is the net result of the revenue loss when the 30.0 percent of an inmate's net salary is withheld, rather than gross salary, combined with the earnings that will be withheld from an additional 9 inmates participating in the program. The Department anticipates that allowing inmates to retain more income will incentivize an additional 9 inmates to begin participating in work release. The funds that are withheld from inmates salaries are used for costs associated with the work release room and board.

Article 16: Relating to Veterans Affairs

This article makes a number of changes to the Office of Veterans Services. Specifically the Article:

- Increases the percentage of a resident's net income that is collected by the Veterans Home from 80.0 percent to 100.0 percent.
- Increases the amount kept by residents for personal needs from $150 to $300 per month.
- Amends RIGL 30-24-10 to allow the Veterans Home to retain 100.0 percent of the net income assessment that is collected from residents.
- Increases the amount charged for the burial of non-veterans at the Veterans Cemetery up to the amount of the U.S. Department of Veterans Affairs burial plot allowance.

FISCAL IMPACT

The Governor includes an increase of $1.3 million in restricted receipts related to increasing the percentage of resident's net income that is collected by the Veterans Home from 80.0 percent to 100.0 percent. This increase is partially offset by a $428,544 decrease in funding due to changes relating to how physical/occupational therapy co-pays are handled and the increase in residents personal needs monthly allowance. Under current law, these co-pays are the responsibility of the resident; however, the Governor suggests updating regulations such that the Veterans Home would cover the cost. The Article is estimated to increase funding for the Veterans Home by a net increase of $881,801 in restricted receipts.

Increasing the amount charge for the burial of non-veterans at the Veterans Cemetery is anticipated to generate an additional $351,600, which would be directed to the general fund.

ANALYSIS AND BACKGROUND

Veterans Home – Resident Income Assessment:

Under current law, the Veterans Home conducts an income assessment for each resident, and collects 80.0 percent of the resident's "net income". Article 16 would increase the amount of net income collected by the Veterans Home from 80.0 percent to 100.0 percent. This increase is anticipated to yield an additional $1.3 million in restricted receipts. Collecting 100.0 percent of resident's net income is the standard practice at the Massachusetts's Veterans Home.

The Article also increases the monthly personal needs amount that is retained by residents from $150 to $300.

The table below illustrates the impact these changes would have on individual veterans, depending on their monthly net income. The average monthly net income the veterans at the Home is $2,329. A veteran with $900 or less in monthly income would either benefit or break even under this initiative, while a veteran with a monthly income of more than $900 would see a loss.

Under Current Law:						
Monthly Net Income	$500	$700	$900	$1,000	$2,000	$3,000
Monthly Allowance	$150	$150	$150	$150	$150	$150
Average Monthly Net Income	$350	$550	$750	$850	$1,850	$2,850
80.0 percent to Vets Home	**$280**	**$440**	**$600**	**$680**	**$1,480**	**$2,280**
Veteran Left With:						
Monthly Allowance	$150	$150	$150	$150	$150	$150
Remainder of 20.0 percent	$70	$110	$150	$170	$370	$570
Total:	**$220**	**$260**	**$300**	**$320**	**$520**	**$720**

**Average monthly net income at Veterans' Home is $2,329*

Article 16:						
Monthly Net Income	$500	$700	$900	$1,000	$2,000	$3,000
Monthly Allowance	$300	$300	$300	$300	$300	$300
Average Monthly Net Income	$200	$400	$600	$700	$1,700	$2,700
100.0 percent to Vets Home	**$200**	**$400**	**$600**	**$700**	**$1,700**	**$2,700**
Veteran Left With:						
Monthly Allowance	$300	$300	$300	$300	$300	$300
	$0	$0	$0	$0	$0	$0
Total:	**$300**	**$300**	**$300**	**$300**	**$300**	**$300**

**Average monthly net income at Veterans' Home is $2,329*

Analyst Note: *Per RIGL 30-24-10 (b)," net income" is defined as "gross income minus applicable federal and state taxes, any amount paid by a resident to support a spouse or child who is blind and/or permanently disabled, and a $150 per month personal needs disregard."*

Under current law, Veterans Services retains 20.0 percent of the funds collected from the resident's income assessments, the remaining 80.0 percent is deposited into the general fund. Article 16 amends RIGL 30-24-10 to allow Veterans Services to retain 100.0 of the funds collected through income assessments. Allowing Veterans Services to retain these additional funds will help to pay for ongoing costs associated with running the home as well as any physical/occupational therapy co-pays. Prior to 2019, all co-pays for physical/occupational therapy were paid for by the Veterans Home. In 2019 this changed and residents were responsible for their own co-pays. Transitioning back will help to increase physical/occupational therapy access and participation for residents. This is anticipated to cost $82,944.

In Connecticut, any funds paid by Veterans for programs or services are deposited into the general welfare funds of the Department of Veterans Affairs.

Veterans Cemetery- Burial of Non-Veterans:

Article 16 allows Veterans Services to charge for the burial of eligible non-veterans in the Veterans Cemetery. Under current law, Veterans Services may only charge eligible non-veterans for the cost of a grave liner. The Article would allow Veterans Services to charge non-veterans up to the amount of the U.S. Department of Veterans Affairs burial plot allowance, which is set forth annually on October 1st. As of October 1, 2019, the plot-interment allowance was $796. This increase is anticipated to generate an additional $351,600, which will be deposited in the general fund.

Connecticut does not charge for the burial of eligible non-veterans in the Veterans' Cemetery. Massachusetts currently changes $300 for a casket burial or $150 for an urn.

Article 17: Relating to Uncompensated Care

This article authorizes the disbursement of Disproportionate Share Hospital (DSH) payments to qualifying community hospitals in federal fiscal year (FFY) 2021, or State fiscal year (SFY) 2022. The article limits the aggregate amount of the payments to $142.3 million all funds. This is consistent with the FFY2020 payments authorized in the SFY2020 Budget as Enacted.

FISCAL IMPACT

This article does not impact expenditures in SFY2021. DSH payments are issued in July of each fiscal year; therefore, there is a discrepancy between State and federal DSH financing. The FFY2021 payments authorized by this article will be disbursed in July 2021, or SFY2022.

ANALYSIS AND BACKGROUND

Federal law requires that state Medicaid programs make Disproportionate Share Hospital (DSH) payments to qualifying community hospitals which serve a large number of Medicaid and uninsured patients. The DSH program subsidizes hospitals with high uncompensated care costs, which include certain expenses that are not covered by Medicaid or other sources. DSH payments are lump-sum disbursements issued in July of each fiscal year and are subject to the applicable Federal Medical Assistance Percentage (FMAP) at the time of issuance. The State share is funded through revenues generated by the hospital licensing fee authorized in Article 18.

DSH payments for SFY2021, which will be issued in July 2020, were authorized by the FY2020 Budget as Enacted. The Governor includes $66.9 million from general revenues ($142.3 million all funds) in FY2021 for these payments, consistent with the enacted budget. Article 17 authorizes DSH payments for State FY2022 with the same aggregate limit of $142.3 million. The article requires that DSH funds be allocated in direct proportion to each hospital's share of statewide uncompensated care provided in FFY2018.

The federal Patient Protection and Affordable Care Act (ACA) included a phase-out of federal DSH payments, set to begin initially in 2014, which has been postponed by Congress several times. At the time of the November 2019 Caseload Estimating Conference (CEC), federal legislation to delay DSH reductions was pending in Congress but had not been passed. Because caseload estimates are based on current law—both State and federal—the Conference included the reduced federal DSH allotment in the SFY2021 estimate, which also lowered the State's contribution. This lowered the aggregate DSH payment for SFY2021 from $142.3 million to $77.8 million.

As of February 20, 2020, the DSH reductions planned for FFY2020 have not been delayed; however, the Governor's Budget assumes that the DSH payments will be restored by Congress for both SFY2021 and SFY2022. Therefore, Article 17 does not modify the existing DSH authorization for SFY2021 and the Governor's Budget includes the full $142.3 million. This increases general revenue expenditures by $30.3 million relative to the November 2019 CEC estimate but does not impact expenditures compared to the Enacted Budget. The additional expenditures are accounted for within the Medicaid program, although this increase is not effectuated by statutory changes included in Article 17.

Disproportionate Share Hospital (DSH) Payments

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

$ in millions

Article 18: Relating to Licensing of Hospital Facilities

This article increases the hospital license fee from the current FY2021 authorization of 5.0 percent to 6.0 percent, consistent with the fee structure utilized in both FY2019 and FY2020.

FISCAL IMPACT

The Budget assumes that the hospital license fee will generate a total of $193.8 million in FY2021, consistent with the FY2020 Enacted Budget.

The revenue generated by the enacted 5.0 percent fee, or $161.5 million, is already accounted for in the November 2019 Revenue Estimating Conference (REC) estimate. Conferees are required to base their estimates on current law, which includes a 5.0 percent fee in FY2021. The 1.0 percentage point increase authorized by this article will generate an additional $32.3 million in FY2021 relative to the November estimate.

Fiscal Year	Fee	Revenue
FY2015	5.703%	$157.2
FY2016	5.862%	169.1
FY2017	5.652%	169.0
FY2018	5.856%	182.0
FY2019	6.000%	180.8
FY2020	6.000%	193.8
FY2021	6.000%	193.8

$ in millions

ANALYSIS AND BACKGROUND

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

Article 18 authorizes a hospital license fee of 6.0 percent in FY2021, consistent with the FY2020 Enacted Budget. The rate is discounted by 37.0 percent (to a fee of 3.78 percent) for hospitals located in Washington County (South County and Westerly Hospitals), pending approval of a uniformity waiver. Bradley and Butler Hospitals and the Rehabilitation Hospital of Rhode Island are exempt from the fee because their primary services and patient beds are psychiatric in nature.

FY2021 Hospital License Fee Revenue

Hospital	Article 18 (6.0%)
Eleanor Slater Hospital	$6,828,501
Kent Hospital	19,987,868
Landmark Medical Center	7,371,115
Miriam Hospital	25,924,198
Newport Hospital	6,429,455
Rhode Island Hospital	75,663,562
Roger Williams	9,768,299
St. Joseph's	8,077,374
South County Hospital	6,062,216
Westerly Hospital	2,470,208
Women & Infants	25,266,971
Total	**$193,849,765**

Note: Total only reflects the hospital license fee paid to the State; it does not include State payments made to hospitals.

In past fiscal years, the hospital license fee has been used as a mechanism to generate State funds, a portion of which are then matched with federal Medicaid funds and returned to hospitals to offset uncompensated care costs through the Disproportionate Share Hospital (DSH) payment authorized in Article 17. Because the State's largest hospitals are non-profit and do not pay corporate income or property taxes, the hospital license fee is a considerable source of revenue for the State.

The hospital license fee has been authorized on an annual basis since its inception. However, due to pending changes to the DSH program at the federal level, the FY2020 Budget as Enacted included a license fee in advance for FY2021, lowering the standard fee from 6.0 percent to 5.0 percent. The Governor's Budget assumes that these federal changes will be delayed, as they have been in prior years, and maintains both the DSH payment and the hospital license fee at the FY2020 Enacted level.

Analyst Note: The FY2021 fee is payable by July 13, 2021, which means that the State will not receive full payment until FY2022. However, the article requires hospitals to report the amount of the fee due by June 15, 2020, allowing the State Controller to book the revenues as a receivable to FY2021.

Article 19: Relating to Workforce Development

This Article makes a number of changes to apprentice programs, apprentice and trainee terminology, and the jobs development assessment within the Department of Labor and Training. The Article also increases the minimum wage from $10.50 to $11.50 per hour, and increases the Rhode Island Earned Income Tax Credit.

FISCAL IMPACT

The Governor includes an increase of $1.4 million in restricted receipts related to the expansion of the Job Development Assessment to include eligible non-profit entities. This increase is partially offset by a $1.1 million reduction from increasing the Earned Income Tax Credit.

The Governor also includes an additional $151,343 in general revenue within the Department of Environmental Management to support the increase in the minimum wage.

ANALYSIS AND BACKGROUND

Apprentice Definitions

Article 19 amends RIGL 28-45 to further define an apprentice, apprenticeship program, and registration agency, and states that this chapter only applies to registered apprenticeship programs. The Article also amends the definition of an "apprentice plumber" to require the apprentice be registered as an apprentice plumber in accordance with RIGL 28-45 and changes the definition from trainee/telecommunications apprentice to telecommunications trainee. These changes in definitions are intended to ensure compliance with federal regulations.

Electrician Apprentices

The Article outlines exam requirements for each class of the electrical licensing exam, and outlines the time-based terms of electrical apprenticeships for Class B, Class M, and lighting protection installers. Current law requires apprentice electricians to complete a certain number of hours within a time constraint, i.e. an apprentice electrician working to qualify for the journeyperson "B" electrician exam must complete 8,000 hours of work over a period of 4 years. The Article retains the required number of hours for each Class of electrician but removes the time constraint within which the hours must be completed.

The Article also allows for an apprentice, who has an associate degree in electrical technology, has completed electrical technology courses in a recognized college, or has successfully completed an authorized trade school education, to be granted credit for 288 hours of instruction toward the completion of their apprenticeship. An apprentice may also be granted 144 hours of credit for relevant technical education completed in high school. The Article also requires any electrical apprentice, who is registered with a registration agency outside of the State, to obtain reciprocal recognition from DLT before being allowed to work as an electrical apprentice in Rhode Island.

Mechanical Trades

The Article amends RIGL 28-27 to change the measurement of time required to complete a journeyperson refrigeration technician, journeyperson pipefitter, journeyperson sheet metal worker, and journeyperson sprinkler fitter apprentice program from years to hours.

The Article also allows an apprentice to receive credit for prior learning, to be used towards licensing hours, with written approval of the mechanical board. Apprentices who have completed two years of relevant technical coursework or have an associated degree in pipefitting, refrigeration/air conditioning, or fire protection sprinkler systems may receive 288 hours of instruction toward the completion of their apprenticeship. The Article removes the $30 apprenticeship license fee for P.J.F. journeyperson oil burnerperson's license.

TOC

School Construction Apprenticeships

The Article amends RIGL 37-13-3.2 to include legislative findings pertaining to the state of Rhode Island's schools and school construction. The Article references a 2017 report, commissioned by the School Building Authority, which identified $2.2 billion in deficiencies within the State's 306 public schools. In 2018, voters approved $250.0 million in general obligation bonds to support school construction projects. The Article also notes that there will be a shortage of construction workers by 2022 which could delay projects and negatively impact future project costs. Apprenticeship training is a viable solution to address changes in the workforce while preparing future construction workers for their careers. The Article defines an "approved apprenticeship program" as a program that has been approved by the U.S. Department of Labor or a recognized state apprenticeship agency.

To ensure the future of the construction labor force, the Article requires contractors and subcontractors working on major school construction projects, valued at $5.0 million or more, to participate in apprenticeship training programs, and ensure that no less than 10.0 percent of the labor hours worked on the project is performed by apprentices. This is only required of contractors and subcontractors with five or more employees. The Article also requires any contractor or subcontractor awarded a school construction project to submit data pertaining to their employees to the entity responsible for managing the relevant school construction contract. The DLT may impose a fine of $500 per day that the contractor or subcontractor does not submit the required information. Any fines collected will be paid to the Department's prevailing wages enforcement fund and deposited into a restricted receipt account.

Hearings – Payments of Debts by Contractors

Pursuant to RIGL 37-13, Labor and Payment of Debts by Contractors, any contractor who does not comply with the provisions of this chapter will be summoned to a hearing before a hearing officer who may be the Director of Labor and Training, or a designee. Article 19 amends RIGL 37-13 to increase the number of days the hearing officer has to hold a hearing after issuing an order from 10 days to 30 days. The Article also increases the number of days that the hearing officer has to make a determination and enter an order about the hearing from 10 days to 30 days after the hearing. The Article adds that failing to report apprenticeship information is a violation of the chapter.

Employment of Minors

Amends RIGL 28-3 to be renamed "Employment of Minors". Under current law, the chapter is titled "Employment of Women and Children".

Minimum Wage

The Article increases the minimum wage from $10.50 to $11.50 per hour effective October 1, 2020. Rhode Island increased the minimum wage in 2018 and 2019. The Governor's FY2020 Budget proposed to increase the minimum wage from $10.50 to $11.10 per hour effective January 1, 2020; however, this was not included in the FY2020 Budget as Enacted.

New England Minimum Wage Rates

	2017	2018	2019	2020	2021
Massachusetts	$11.00	$11.00	$12.00	$12.75	$13.50
Rhode Island	9.60	10.10	10.50	10.50	11.50
Connecticut	10.10	10.10	10.10	12.00	13.00
Vermont	10.00	10.50	10.78	10.96	10.96*
Maine	9.00	10.00	11.00	12.00	12.00
New Hampshire	7.25	7.25	7.25	7.25	7.25

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

The Governor's Budget includes an additional $151,343 within the Department of Environmental Management to support increased compensation for seasonal workers.

Jobs Development Assessment

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. 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.

The Article expands RIGL 28-43, "Employment Security – Contributions", to subject any non-government, nonprofit organizations with at least 1,000 employees to the job development assessment. The Director of DLT is authorized to promulgate regulations to administer this assessment and may allow employers to make in-kind contributions in lieu of monetary payments. The Department anticipates there will be between 11 and 12 new employers who will be impacted, generating an additional $1.4 million in restricted receipt funds.

	FY2020 Enacted	FY2021 Governor (without non-profits)	FY2021 Governor (with non-profits)	Difference	
Job Development Fund	$16,843,397	$17,710,179	$19,122,676	$1,412,497	8.0%

Analyst Note: The Article does not define "in-kind contributions". According to the Department of Labor and Training, what constitutes in-kind contributions will be decided if the Article is passed and may include providing instructors and spaces to use for work training programs.

Earned-Income Tax Credit (EITC) Increase

Beginning December 1, 2020, the Article increases the refundable Rhode Island earned income tax credit (EITC) by one percentage point increments each tax year until the RI EITC amount is equal to 20.0 percent of the federal EITC. The EITC for TY2021, therefore, would be 16.0 percent, or 1.0 percent above the current 15.0 percent. The percentage reaches 20.0 percent in TY2025. Article 19 decreases revenues by $1.1 million in FY2021. The fiscal impact for fiscal years FY2021-FY2025 are summarized in the following table:

EITC History

Tax Year	Perecnt of Federal EITC	Fiscal Year	Revenue Impact
2020	15.0%	FY2020	-
2021	16.0%	FY2021	($1.1)
2022	17.0%	FY2022	(3.5)
2023	18.0%	FY2023	(6.0)
2024	19.0%	FY2024	(8.7)
2025	20.0%	FY2025	(11.6)
		Total	($30.9)

Note: Yearly revenue impacts are relative to current law, not previous tax year.

The Earned Income Tax Credit (EITC) is a refundable tax credit for low and moderate income working individuals whereby the credit can go beyond reducing an individual's tax liability to zero to producing a credit that is greater than the amount of tax owed, thus representing a refundable cash payment to the filer. It is designed to work in tandem with other cash transfer programs to encourage employment among low-income families. As income rises, cash benefits decrease and the EITC transfer increases as an offset, and in essence, replaces cash benefits and thus encourages employment.

The General Assembly has modified the EITC credit structure several times since 2014. Prior to 2014, the Rhode Island EITC was based on 25.0 percent of the federal EITC with up to 15.0 percent of it refundable to the taxpayer. In 2014, the General Assembly reduced the credit as percentage of EITC to 10.0 percent; however, it permitted up to 100.0 percent of the credit to refundable beginning TY2015. The credit amount was increased in 2015 for TY2016 to 12.5 percent, and again in 2016 for tax years TY2017 and thereafter to its current15.0 percent of the federal EITC, continuing to be fully refundable.

EITC History

Tax Year	Percent of Federal EITC
Pre-2015	25.0%
2015	10.0%
2016	12.5%
2017	15.0%
2018	15.0%
2019	15.0%
2020	15.0%
2021*	16.0%
2022*	17.0%
2023*	18.0%
2024*	19.0%
2025*	20.0%

** Article 9 percentage*

A taxpayer can claim a federal earned income tax credit if the person is employed and meets certain eligibility criteria related to children living in the home. The federal EITC is 45.0 percent of the first $12,570. The Office of Revenue Analysis (ORA) has estimated that for tax year 2019 there were 94,773 taxpayers that claimed the Rhode Island EITC, representing $28.4 million in foregone revenue. The table below shows the estimated number of taxpayers for the last five tax years.

EITC Activity

Fiscal Year	Taxpayers	Foregone Revenue
2015	87,349	$18,949,131
2016*	89,053	23,682,525
2017*	90,920	28,418,780
2018*	92,827	28,418,780
2019*	94,773	28,418,780

** ORA Estimates*

Article 20: Relating to Healthcare Reform

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

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

FISCAL IMPACT

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

FY2021 Article 20 Revenue Impact

Initiative	General Revenue
RIte Share	($214,725)
Medical Profession Interstate Compacts	(59,331)
Total	**($274,056)**

Initiative	Restricted Receipts
Health Care Cost Trends Project Enrollee Fee	$616,617

The article increases general revenue expenditures by $12,000 for compact fees for the nurse and psychologist compacts. Expansion of the RIte Share program is anticipated to decrease expenditures by $4.9 million with Medicaid savings offset by implementation and personnel costs.

ANALYSIS AND BACKGROUND

Medical Profession Interstate Compacts

This article establishes and modifies language to allow the State to enter into several medical profession interstate compacts. Interstate licensure compacts allow special licensure or exceptions to state licensing requirements for specific health care providers to practice across state lines in other states that have adopted the same compact as long as certain requirements are met. The compacts would decrease license fee revenues by $59,331 and increase expenditures by $12,000. The State would enter the following interstate compacts:

- **Interstate Medical Licensure Compact (IMLC):** The article would allow the State to enter into the Interstate Medical License Compact. The IMLC is an agreement between 29 states, the District of Columbia and the Territory of Guam, where physicians are licensed by 43 different Medical and Osteopathic Boards. The General Assembly and Governor must sign off on the new rule and the Compact language must be the same in every state. Under this agreement, licensed physicians can qualify to practice medicine in other compact states if they meet the agreed-upon eligibility requirements. Approximately 80.0 percent of physicians meet the criteria for licensure through the IMLC. The Compact began approving physician applications in 2017 and has approved over 500 physicians.

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

Physicians hold a license in a compact state with no record of convictions, adjudications, community supervision, or deferred dispositions. The physician must have a record clear of discipline by any state, federal, or foreign jurisdiction and have never had a controlled substance license or permit revoked. The physician must choose a primary state of principal license. The Compact is governed by a Board of Directors made up of two representatives from each Compact state. The physician's credentials and legal history are reviewed by the Board, who decides if licensure is granted. All compact states are required to share complaint/investigative information so that if the physician comes under review in one state, all states will take similar action.

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

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

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

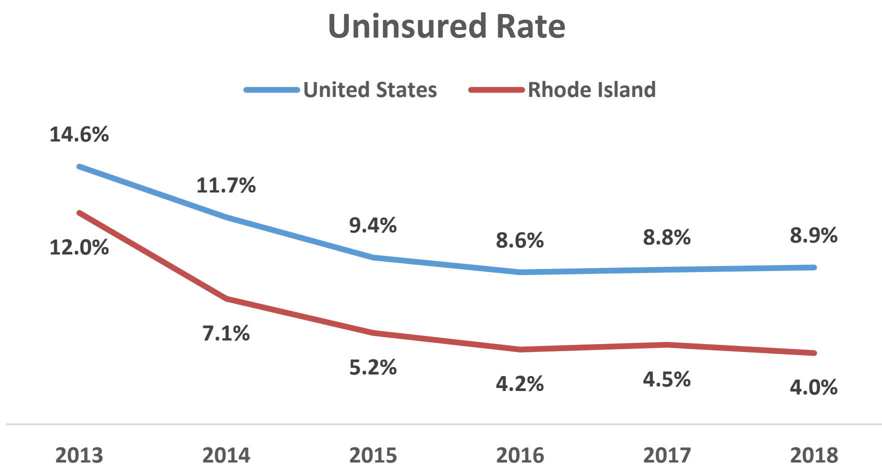
- **Psychology Interjurisdictional Compact (PSYPACT):** The Psychology Interjurisdictional Compact (PSYPACT) is an interstate compact designed to facilitate the practice of telepsychology and temporary in-person, face-to-face psychology practice across state boundaries. Currently, PSYPACT has twelve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

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

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

State Codification of the Affordable Care Act

Article 20 includes changes to statute that would ensure that the provisions of the Affordable Care Act (ACA), enacted by Congress in 2010, would remain in effect in the State in the event that federal courts or Congress repeal the provisions. The provisions would only take effect upon the repeal of the associated federal laws. Under the ACA, Rhode Island has been able to lower the uninsured rate, stabilize the State's health insurance market, and increase access to healthcare.



Source: US Census Bureau

On December 18, 2019, a federal appeals court ruled that the ACA's individual mandate is unconstitutional. The appeals court sent the case back to the lower court to determine how much of the ACA should be overturned, putting protections like coverage of preexisting conditions at risk. The article does not expand on the protections provided in the ACA, it only codifies certain provisions into state law. The article would require that all individual, small employer, and large group plans cover preventative services without any copayments, deductibles, or co-insurance.

The codified protections would continue to prevent insurers in the individual market from denying coverage based on health status, age, gender, or other factors. Plans sold to individuals cannot deny coverage on the basis of a preexisting condition. The article would allow insurers in the individual market to offer open enrollment periods annually for 30 to 60 days.

The article would also codify the requirement that individual and small employer plans cover essential health benefits. Essential health benefits include ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health services and behavioral health treatment, prescriptions, rehabilitative and habilitative services and devices, laboratory services, preventative care, and pediatric services (including oral and vision care).

Since 2013, thirteen states have codified certain protections of the Affordable Care Act. Maine, New Mexico, and Washington have codified all protections of the Affordable Care Act into state law.

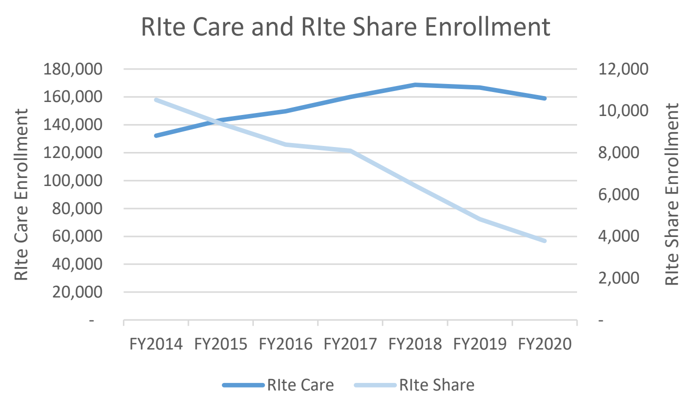
RIte Share

This article amends RIGL 40-8.4-12 to expand enrollment in the RIte Share program, Rhode Island's premium assistance program for working Medicaid beneficiaries, by ensuring that the State has the requisite eligibility information from employers. The article requires that for-profit, non-government employers with 50 or more employees submit employee eligibility information to the State and establishes penalties for non-compliance, modeled after a penalty in Massachusetts. The article also amends the duties of the Tax Administrator to collect the penalties established by the article. The impact from increased RIte Share enrollment would generate approximately $5.0 million in general revenue savings within the Executive Office of Health and Human Services, with a corresponding loss of $380,000 in insurance premium tax revenues. The Budget also assumes that the State will collect $165,675 in new penalty revenues, of which $50,000 is for technology systems and $100,251 to fund a position within the Division of Taxation. The position would be funded within the current FTE authorization.

The Rhode Island Health Reform Act of 2000 established the RIte Share premium assistance program to subsidize the costs of enrolling working Medicaid beneficiaries in employer-sponsored insurance (ESI) plans. The program is an alternative to RIte Care or Medicaid Expansion, Rhode Island's primary managed care plans that provide health insurance coverage to low-income children, pregnant women, families, and non-disabled adults. Instead of enrolling individuals in either RIte Care or Expansion, the RIte Share program pays all or a portion of an individual or family's premium on an approved ESI plan, which is significantly more cost-effective. RIte Share participants are also eligible to receive any services and benefits that would be available through RIte Care or Expansion that are not available through the employer's plan, known as wraparound services. On average, the cost avoided by enrolling one individual in RIte Share instead of RIte Care or Expansion is approximately $3,200 per year.

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

Average RIte Share enrollment has steadily declined over the last decade, although overall participation in Medicaid has increased. This is attributable to the current RIte Share enrollment process, which Article 20 seeks to amend. Currently, the State requires employees to furnish information about available ESI plans and EOHHS must confirm with their employers. This puts the burden of enrollment on employees and is inefficient for employers, who often respond to EOHHS on a per-employee basis.



This article shifts the burden of ESI data collection from the employee to the employer to efficiently enroll all eligible employees from a single employer at the same time. In order to accomplish this, the article requires for-profit employers with 50 or more employees to provide EOHHS and the Division of Taxation with sufficient and necessary information for EOHHS to determine employee eligibility for RIte Share. Employers would be required to provide quarterly enrollment reports detailing which employees are and are not enrolled in ESI and to notify EOHHS of any employee who is no longer employed or otherwise loses their ESI. Submissions would be required from employers who had 50 or more employees at any time during the State fiscal year, with the first submission due from employers who had 50 or more employees at any time between July 1, 2019, and June 30, 2020. The forms must be filed with the Division of Taxation between November 15 and December 15 during the year in which they are due, with the first round due in 2020. Employers who do not file on time would be assessed a $2,500 penalty, and employers who falsify or omit information would be assessed a $5,000 penalty. Assuming that 1.0 percent of employers will file late and 0.5 percent will not comply, the FY2021 Budget includes $165,675 in new penalty revenue in FY2021. This revenue would cover $150,251 in implementation costs in the Division of Taxation.

By streamlining the RIte Share eligibility determination process, the Budget assumes that approximately 5,800 members will be enrolled in RIte Share instead of either RIte Care or Expansion, generating $5.6 million in general revenue savings ($19.0 million all funds) to the Medicaid program in FY2021. The savings would be offset by $600,000 in implementation costs within EOHHS, including $500,000 for system enhancements and $100,000 for a contracted employee, for net general revenue savings of $5.0 million. Additionally, the $19.0 million all funds savings would otherwise be subject to the 2.0 percent insurance premium tax; therefore, this initiative would also result in a $380,000 loss in revenues.

Healthcare Cost Trend Project

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

The Executive Office of Health and Human Services (EOHHS) and the Office of the Health Insurance Commissioner (OHIC) partnered on the Cost Trends Project to work with community stakeholders. The article establishes the Health Spending Transparency and Containment Act with an imposed fee of $1 per covered individual in the State. The fee does not apply to individuals covered by publicly funded plans. The funds raised from the fee, paid by insurers, will help sustain the Cost Trends effort moving forward. OHIC will be working with EOHHS, but the primary focus is the data analytics, which will be done by EOHHS staff.

The fee will raise $616,617 in restricted receipts in FY2021 to fund the program and the data analysis required to track and steer healthcare spending.

Analyst Note: The restricted receipt account would be housed in EOHHS, but was not included in the Governor's Budget. An amendment is expected but has not been received as of February 11, 2020.

Article 21: Relating to Health and Safety

Article 21 makes various changes to the sale of tobacco products and electronic nicotine delivery systems (ENDS). Specifically, the article:

- Raises the legal purchasing age of tobacco products and electronic nicotine devices from 18 to 21.
- Increases the cigarette excise tax by $0.35 per pack of 20 cigarettes.
- Increases the maximum tax per cigar from $0.50 to $0.80.
- Changes the regulatory framework for ENDS and other tobacco products, including oversight authority, licensing requirements, fees, and penalties.
- Modifies the excise tax for ENDS and other tobacco products.

FISCAL IMPACT

The initiatives in Article 21 are estimated to increase general revenue collections by $2.0 million in FY2021.

Cigarettes & Other Tobacco Products Changes	Amount
Cigarette Tax Increase	$4.3
Tobacco 21	(3.7)
Other Tobacco Products and ENDS (Vaping) Changes	1.4
Total	**$2.0**

$ in millions. Totals may vary due to rounding.

ANALYSIS AND BACKGROUND

Cigarette Tax Increase

Article 21 increases the excise tax levied on cigarettes by $0.35 per pack of cigarettes, raising the total tax from $4.25 to $4.60 per pack of 20. According to the Office of Revenue Analysis (ORA), the total minimum retail price will increase by $0.41, from $10.00 to $10.41 per individual pack. According to the Department of Revenue, this amount is $0.02 less than the minimum retail price in Massachusetts, but $0.03 above the minimum price in Connecticut. The article also imposes a floor stock tax of $0.35 per pack of 20 cigarettes. The additional excise, floor, and associated sales taxes from the article is estimated to generate an additional $4.3 million in revenue based on an August 1, 2020, effective date.

In determining the revenue estimate, ORA considered the elasticity of the price of cigarettes. The $0.35 excise tax increase amounts to a 4.1 percent price increase. Applying elasticity from decreased demand, calculated from previous tax increases, results in a net excise tax revenue increase of 3.0 percent.

Cigarette Tax Increase - Fiscal Imact

Cigarette Excise Tax Increase	$3.3
Cigarette Excise Tax - Floor Tax	1.0
Impact of Cigarette Tax Increase on Sales Tax	(0.0)
Total	**$4.3**

$ in millions. Totals may vary due to rounding.

TOC

Impact of Cigarette Excise Increase and Regional State Comparison

		Rhode Island		Massachusetts		Connecticut	
		Current	Proposed				
Base Price per Pack in $		$4.33	$4.33		$4.14		$4.14
Excise Tax in $		4.25	4.60		3.51		4.35
Subtotal base price + Excise		8.58	8.93		7.65		8.49
Wholesale Markup	2.0%	0.17	0.18	2.0%	0.15	6.5%	0.55
Wholesale Cartage	0.75%	0.07	0.07	0.75%	0.06	0.0%	0.00
Retail Markup	6.0%	0.53	0.55	25.0%	1.96	8.0%	0.72
Total Base Cost		9.35	9.73		9.82		9.76
Sales Tax	7.0%	0.65	0.68	6.25%	0.61	6.35%	0.62
Total Price per Pack		**$10.00**	**$10.41**		**$10.43**		**$10.38**

Note: The Office of Revenue Analysis calculated final retail price per pack using a weighted average of price per pack based on the respective states' minimum price lists and data on market share provided by the CDC. Data on final retail price for Connecticut is from The Tax Burden on Tobacco, 1970-2018 dataset as provided by the CDC. An average ratio between the final retail price calculated by ORA for RI and MA and the average cost per pack from The Tax Burden on Tobacco data for RI and MA was applied to the average cost per pack from The Tax Burden on Tobacco data for CT.

Tobacco 21

Effective December 21, 2019, federal legislation raised the minimum age to purchase tobacco products from 18 to 21. The legislation provided the US Food and Drug Administration (FDA) with six months to amend regulations to reflect the change. Upon adoption of the regulations, the minimum purchase age would increase to 21 within 90 days. A number of states had already adopted a minimum purchase age of 21 prior to the change at the federal level, including Connecticut, Maine, Massachusetts and Vermont. Article 21 updates Rhode Island statutes to reflect these new federal minimum age changes.

- **BHDDH Enforcement:** The Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) administers the State's anti-smoking programs and enforces underage smoking laws. Article 21 updates relevant BHDDH statutes to reflect the new minimum age. The article also incorporates the electronic nicotine delivery systems (ENDS) into these statutes.
- **Penalties:** Article 21 also changes the penalties for violations of these statutes, although the Budget does not assume additional revenue from these changes.

Article 21 Penalty Changes

Violation	Current	Article 21
Failure to display legal smoking age	$35	$100
Selling cigarettes/OTP/ENDS in altered packaging or as single cigarettes	500	1,000
Selling cigarettes/OTP/ENDS to under 21		
1st offense	250	500
2nd offense	500	1,000
3rd offense	1,000	2,000
4th + offense	1,500	3,000

To estimate the lost revenue from the 18 to 21 population, the Office of Revenue Analysis (ORA) used census data and the Youth Risk Behavior Survey to estimate the number of cigarette smokers in that age group. ORA estimates there are currently 4,160 18 to 21 year old cigarette smokers in Rhode Island. Using statistics on the number of cigarettes smoked per day by 18, 19, and 20 year olds, ORA estimates the State will lose $1.8 million in excise tax revenues. ORA also similarly estimated the impact on other tobacco products (OTP). Approximately 7.7 percent of 18 to 21 year olds use OTP, resulting in an estimated excise tax revenue decrease of $827,310. The increased minimum purchase age will also reduce sales tax revenues by $1.0 million. This results in a net revenue loss of $3.7 million in FY2021.

Tobacco 21 Fiscal Impact

Cigarette Excise Tax	($1.8)
Sales and Use Tax	(1.0)
Cigar Tax	(0.8)
Total	**($3.7)**

$ in millions. Totals may vary due to rounding.

Other Tobacco Products and ENDS (Vaping) Changes

Article 21 bans the sale of flavored electronic nicotine delivery system (ENDS) products. The article also makes significant modifications to the regulatory and tax framework of other tobacco products (OTP), including establishing a new ENDS product category.

ENDS Background: Electronic nicotine delivery systems, or ENDS, have become a popular alternative to cigarette smoking. ENDS are referred to by various names depending on their design, including vapes, e-hookahs, vape pens, tank systems, mods, and e-cigarettes. ENDS usually have a battery, a heating element, and a place to hold liquids. The device produces an aerosol by heating liquids that usually contain nicotine and other chemicals. Proponents claim that ENDS are a proven and healthy method of smoking cessation. The products, however, have been deemed unsafe by the U.S. Center for Disease Control for youth, young adults, pregnant women, and adults who do not already use tobacco products. The aerosol can contain potentially harmful substances. In September 2019, the Governor issued an executive order banning all ENDS products that "impart a characterizing flavor" or contain a nicotine content of 35 milligrams per milliliter. Characterizing flavor means a distinguishable taste or aroma including menthol. Article 21 codifies this ban. The ban does not apply to flavored cigarettes.

Consolidated Tobacco/ENDS Regulation and Licensing: Licensing and transaction regulations for dealers and distributors of cigarettes, vaping products, cigars and other tobacco products vary significantly under current law. Article 21 makes several changes to this regulation. The various classes of licensees that are subject to the changes in fees and regulation are defined in RIGL 44-20-1.

Class	Definition
Stamping	Cigarettes require Taxation stamp. Refers to all classes involved with the sale of cigarettes in RI.
Non-Stamping	OTP and electronic cigarette related products do not require stamps. Refers to all classes involved with their sale in RI.
Dealer	Any person, whether located within or outside of this state, who sells or distributes cigarettes, other tobacco products to a consumer in this state.
Distributor	Any person, whether located within or outside of this state, other than a dealer, who: 1) Sells or distributes cigarettes and/or other tobacco products within or into this state; 2) Sells cigarettes and/or other tobacco products directly to consumers in this state by means of at least twenty-five (25) vending machines; 3) Engages, in this State, in the business of manufacturing cigarettes and/or other tobacco products or any person engaged in the business of selling cigarettes and/or other tobacco products to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent (75%) of all cigarettes and/or other tobacco products sold by that person in this state are sold to dealers or other persons for resale and selling cigarettes and/or other tobacco products directly to at least forty (40) dealers or other persons for resale; or 4) Maintains one or more regular places of business in this state for that purpose; provided, that seventy-five percent (75%) of the sold cigarettes and/or other tobacco products are purchased directly from the manufacturer and selling cigarettes and/or other tobacco products directly to at least forty (40) dealers or other persons for resale.
Manufacturer	Any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette and/or other tobacco products.
Importer	Any person who imports into the United States, either directly or indirectly, a finished cigarette or other tobacco product for sale or distribution

Article 21 makes the following changes:

- **Regulatory Agency:** Dealers and distributors of cigarettes and OTP are currently required to be licensed through the Division of Taxation. ENDS-related product dealers and distributors are licensed by the Department of Health. Article 21 shifts the regulation of ENDS products to the Division of Taxation.

- **Transactions Requiring a License:** Currently, manufacturers or importers of cigarettes are only permitted to sell their products in Rhode Island if they are purchased by a licensed cigarette dealer or distributor. Similarly, in-State dealers, distributors, and importers are not permitted to purchase or receive cigarettes from manufacturers or importers that are not licensed by the Division of Taxation.

  Article 21 requires that OTP and ENDS products be purchased only by in-State dealers, distributors, manufacturers, and importers who are licensed by the Division of Taxation. Manufacturers of ENDS products would be required to obtain a license from Taxation to be able to sell to in-State licensees legally permitted to purchase and receive these products. Manufacturers of OTP products, however, are exempted from this licensing requirement.

- **Fee Changes:** Article 21 increases fees related to the various classes of businesses associated with cigarette, OTP, and ENDS-related products. The Office of Management and Budget (OMB) estimates that these changes will yield $402,500 in FY2021, based on a July 1, 2020, effective date.

Class	Fee	Current	Article 21	*Change*
Manufacturer	Application	$0	$1,000	*$1,000*
Importer	Application	1,000	1,000	-
Distributor	Application	1,000	1,000	-
Non-stamping Distributor	Application	100	400	*300*
Dealer	Application	25	75	*50*
Dealer	License	-	400	*400*
Dealer	Renewal	25	400	*375*

Other Tobacco Product Tax Changes: Article 21 makes several changes to OTP excise taxes.

- **Cigar Tax Increase:** Article 21 increases the maximum tax imposed on cigars sold in the State. The current maximum tax is set at $0.50 per cigar. Article 21 raises the maximum to $0.80, effective August 1, 2020. According to the ORA, cigars with a wholesale cost of over $0.63 per cigar are taxed at the maximum rate. In FY2019, approximately 3.3 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 that increasing the maximum cigar tax will generate $737,379 in new general revenue in FY2021 based on an August 1, 2020, effective date.

- **E-liquids Excise Tax:** Article 21 subjects e-liquid products to the "other tobacco products" (OTP) excise tax at the rate of 80.0 percent of the wholesale cost. E-liquid and e-liquid products are defined under Article 21 as the liquid or substance that is placed in an ENDS product and vaporized or combusted. The article specifically indicates that an item is considered an e-liquid product when is either sold separately or in combination with an ENDS device. For purposes of the application of the excise tax, therefore, the entire value of a vaping device that is sold with e-liquid would taxable. ENDS products associated with hemp-derived consumable CBD products are specifically exempted from the excise tax.

- Using e-liquid and e-cigarette revenue data from other states, ORA projects that excise taxes associated with ENDS products will generate $251,414 in general revenue in FY2021 based on September 1, 2020, effective date.

Article 22: Relating to Effective Date

This article provides that the Act will take effect on July 1, 2020, except as otherwise provided herein.

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

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

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

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RI Airport Corporation
RI Public Transit Authority
RI Turnpike & Bridge Authority
Transportation