



SENATE FISCAL OFFICE
REPORT

**GOVERNOR'S FY2024
AND
FY2023 SUPPLEMENTAL
BUDGET**

2023-H-5200 AND 2023-H-5199

ARTICLE SUMMARIES

FEBRUARY 8, 2023

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FY2023 SUPPLEMENTAL BUDGET ARTICLES

2023 – H-5199: Relating to Making Revised Appropriations in Support of FY2023

Article 1 outlines the appropriation amounts from all fund sources for the FY2023 Supplemental Budget. In most cases, the appropriations are by fund source at the program level in each department or agency. The article includes the FTE position authorizations by department or agency. Other sections of the article outline the use of contingency funds; expenditure limits for internal service funds; and, disbursements of Lottery, Temporary Disability Insurance, Employment Security, and University and College Funds. This article makes appropriations for general revenues, federal, restricted, and other funds, and authorizes FTE levels for each agency and department. Article 1 also includes the following items:

- Sets the airport impact aid formula at \$1.0 million.
- Authorizes 15,463.5 FTE positions, reflecting a net increase of 8.0 FTE positions, as compared to the authorized level set in the FY2023 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 FY2024. In addition, the Office of the Postsecondary Commissioner shall provide \$6.9 million be allocated to the Rhode Island Promise Scholarship program, \$147,000 to support the State's membership in the New England Board of Higher Education, and \$75,000 be allocated to Best Buddies 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 \$1.3 million. It requires Judiciary to provide \$230,000 to the Rhode Island Coalition Against Domestic Violence for domestic abuse court advocacy and requires \$90,000 be provided to the Rhode Island Legal Services to provide housing and eviction defense to indigent individuals.
- Amends federal funds, authorized, allocated, or apportioned to the State from the State Fiscal Recovery Fund pursuant to the American Rescue Plan Act of 2021.
- Requires the State Controller to transfer \$4.4 million to the Workers' Compensation Administrative Fund by June 30, 2023.

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, 2023.

| <u>Expenditures by Source</u> | <u>FY2022 Final</u> | <u>FY2023 Enacted</u> | <u>FY2023 Governor</u> | <u>Change to Enacted</u> |
|-------------------------------|---------------------|-----------------------|------------------------|--------------------------|
| General Revenue | \$5,236.5 | \$5,042.2 | \$5,266.6 | \$224.4 |
| Federal Funds | 5,326.6 | 5,708.4 | 5,951.3 | 242.9 |
| Other Funds | 2,055.1 | 2,398.4 | 2,450.0 | 51.6 |
| Restricted Receipts | 318.4 | 453.5 | 470.1 | 16.6 |
| Total | \$12,936.6 | \$13,602.5 | \$14,138.0 | \$535.5 |

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

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

- **Administration - State Workforce Compensation and Classification Study:** The Budget requires that \$2.0 million in general revenue be used to support the State Workforce Compensation and Classification Study, of which all unexpended or unencumbered balances, at the end of the fiscal year, shall be reappropriated to FY2024 and made available for the same purposes.

- **Administration - Information Technology Investment Fund:** The Budget requires that of the total available in the Information Technology Investment Fund as of July 1, 2022, these amounts shall be available for the following projects:

| Information Technology Investment Fund | |
|---|---------------|
| State Hospital Electronic Medical Records System | \$22.4 |
| Replace and Modernization DLT Legacy Mainframe System | 19.4 |
| RIBridges Mobile and Childcare Tracking | 6.7 |
| Blockchain Digital Identity | 2.5 |
| Enterprise Resource Planning System | 2.2 |
| DEM Online Permit and Licensing System | 5.8 |
| Adult Correctional Institution WI-FI Technology | 3.3 |
| Tax Modernization System | 2.3 |
| Total | \$64.6 |

\$ in millions

- **Administration – RICAP Transfer:** The Budget includes a one-time transfer of \$257.4 million in general revenue to the Rhode Island Capital Plan (RICAP) fund in FY2023, reflecting an increase of \$242.4 million over the \$15.0 million appropriated in the FY2023 Budget as Enacted. The Budget requires \$60.0 million of the transfer in general revenue from the FY2022 surplus to the Rhode Island Capital Plan fund be used for key capital improvement projects including, Davis Career and Technical School renovations, State House HVAC and building envelope renovations, and state-run group homes.

The Governor includes a one-time transfer of \$157.8 million in general revenue from the FY2022 surplus to the Rhode Island Capital Plan fund for the state match to federal transportation funds. This includes general state match funding as well as replacement revenue for the expected truck toll revenue losses through FY2024 and FY2025. The funding includes:

| Loss Coverage | FY2023 Transfer |
|------------------------------|------------------------|
| FY2023 Truck Toll Loss | \$30.0 |
| FY2024 Truck Toll Loss | 40.0 |
| FY2025 State Match Shortfall | 87.8 |
| Total | \$157.8 |

\$ in millions

The Budget also includes an allocation of \$24.6 million in general revenue to hold harmless the Rhode Island Department of Transportation for the expected revenue loss regarding the pause to the scheduled gas tax rate increase.

- **Administration - Transition Costs:** The Budget removes \$350,000 in general revenue for transitions costs associated with the 2022 General Election and instead appropriates the funds within the affected general office agencies.
- **Labor and Training – Direct Care Training:** The Budget requires \$600,000 in general revenue be used for enhanced training for direct care and support services staff to improve the resident quality of care for nursing facility residents.
- **Business Regulation:** The Budget requires that \$1.5 million in general revenue be used for a new initiative where the Office of the Health Insurance Commissioner conducts a comprehensive view of social and human services programs throughout the state. The Office will analyze rates, utilizations, and eligibility standards.
- **EOHHS:** The Budget requires \$250,000 in general revenue to facilitate the planning for the creation of an Early Childhood Governance Working Group, tasked with submitting a report to the Governor and General Assembly by October 1, 2023, with recommendations addressing the coordination and administration of an early childhood program.

The Budget provides \$2.5 million in general revenue through the Graduate Medical Education initiative for a new resident training program at Landmark Hospital, of which \$1.0 million is provided to Lifespan for the Trauma I Center and \$1.0 million to Care New England for the Neonatal Intensive Care Unit.

- **BHDDH – DD Consent Decree:** The State has been under a Consent Decree with the United States Department of Justice since 2014, requiring the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) to foster more supportive and less isolated employment opportunities and day services for individuals with intellectual and developmental disabilities. With the Consent Decree scheduled to end in FY2024, the State has agreed to an action plan to ensure the requirements of the Consent Decree are fulfilled. Article 1 allocates \$13.8 million in general revenue (\$33.6 million all funds) to support direct support professional wage increases and \$5.7 million in general revenue (\$10.8 million all funds) for a Transformation and Technology Fund to remain in compliance with the action plan.
- **RIDE - Rhode Island Vision Education and Services Program:** The Article requires that \$684,000 from the Department of Elementary and Secondary's administrative share of federal funds for Individuals with Disabilities Education Act funds, be allocated to the Sherlock Center on Disabilities to support the Rhode Island Vision Services Program.
- **RIDE - Education Aid:** The Budget provides that the criteria for the allocation of early childhood funds must prioritize prekindergarten seats and classrooms for four-year-olds with a family income at or below 185.0 percent of federal poverty guidelines and who reside in communities with higher concentrations of low performing schools.
- **Public Safety – Body-worn Camera:** The Article includes \$15.0 million of one-time general revenue to support a new statewide body-worn camera program for law enforcement officers. On June 16, 2021, the State's political and law enforcement leadership announced support for a statewide program to put body-worn cameras on every frontline police officer and supervisor in Rhode Island. The statewide program is designed to equip approximately 1,700 of Rhode Island's uniformed patrol officers, across every municipal police department and the Rhode Island State Police, with body-worn cameras by December 2022. All unexpended or unencumbered balances as of June 30, 2023, shall be reappropriated to FY2024.
- **Corrections – Sex Offender Discharge:** The Budget allocates \$1.0 million to Crossroads Rhode Island for sex offender discharge planning.
- **Environmental Management - Rhode Island Infrastructure Bank:** The Budget requires \$28.5 million in general revenue be allocated to the Rhode Island Infrastructure Bank for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund contingent upon the submission of documentation to the Office of Management and Budget showing the need for the funds to be used as the state match. In addition, \$100,000 is allocated to the Conservation Districts.

INTERNAL SERVICE FUNDS

Article 1 authorizes 15 specific, capped internal service accounts to permit reimbursement of costs for work or other services performed by certain departments or agencies for any other department or agency. The FY2018 Budget as Enacted established centralized accounts for each agency and allows the Department of Administration to draw upon these accounts for billable centralized services and deposit the funds into the rotary accounts under the Department of Administration. Reimbursements may only be made up to the expenditure cap for each account, as outlined below.

| Internal Service Account | FY2023 Enacted | FY2023 Governor | Change |
|--|-----------------------|------------------------|---------------------|
| State Assessed Fringe Benefits | \$37,370,321 | \$37,384,711 | \$14,390 |
| Administration Central Utilities | 27,355,205 | 35,379,345 | 8,024,140 |
| State Central Mail | 7,303,550 | 7,739,779 | 436,229 |
| State Telecommunications | 3,513,931 | 3,459,819 | (54,112) |
| State Automotive Fleet | 12,869,107 | 12,886,486 | 17,379 |
| Surplus Property | 3,000 | 44,789 | 41,789 |
| Health Insurance | 272,697,174 | 272,642,618 | (54,556) |
| Other Post-Employment Benefits | 63,858,483 | 63,858,483 | - |
| Capital Police | 1,380,836 | 1,362,349 | (18,487) |
| Corrections Central Distribution Center | 7,524,912 | 7,458,988 | (65,924) |
| Correctional Industries | 8,472,206 | 8,114,402 | (357,804) |
| Secretary of State Records Center | 1,143,730 | 1,156,743 | 13,013 |
| Human Resources Internal Service Fund | 15,991,654 | 16,005,094 | 13,440 |
| DCAMM Facilities Internal Service Fund | 47,011,910 | 54,866,999 | 7,855,089 |
| Information Technology Internal Service Fund | 50,789,409 | 50,748,407 | (41,002) |
| Total | \$557,285,428 | \$573,109,012 | \$15,823,584 |

FTE POSITIONS

Article 1 establishes the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. The Budget recommends a net increase of 8.0 FTE positions as compared to the authorized level set in the FY2023 Budget as Enacted. The following table illustrates the FTE levels by government function:

| FTE Positions by Function | FY2023 Enacted | FY2023 Governor | Change to Enacted |
|---------------------------------------|-----------------------|------------------------|--------------------------|
| General Government | 2,494.4 | 2,494.4 | 0.0 |
| Human Services | 3,734.3 | 3,742.3 | 8.0 |
| Education | 4,223.4 | 4,223.4 | 0.0 |
| Public Safety | 3,275.6 | 3,275.6 | 0.0 |
| Natural Resources | 449.0 | 449.0 | 0.0 |
| Transportation | 755.0 | 755.0 | 0.0 |
| Subtotal | 14,931.7 | 14,939.7 | 8.0 |
| <i>Higher Ed. Sponsored Positions</i> | <i>523.8</i> | <i>523.8</i> | <i>0.0</i> |
| Total FTE Positions | 15,455.5 | 15,463.5 | 8.0 |

Article 2: Relating to Public Service Corporations Tax

Article 2 of the Governors Recommended FY2023 Supplemental Budget provides a rebate on the collection of the public service corporations tax (PSCT) on gross receipts tax for electric and gas utilities for the period of December 2022 through March 2023. Public utilities would continue to collect and remit taxes but will be required to provide a credit to commercial and residential customers for the stated period, effectively reducing their bills during that time.

FISCAL IMPACT

The changes to the PSCT included in Article are estimated to result in a \$35.6 million revenue reduction in FY2023 only.

| Impact on PSCT Collections | | |
|----------------------------|-----------------|--------|
| Utility | FY2023 | FY2024 |
| Natural Gas | (\$10.1) | - |
| Electricity | (25.5) | - |
| Total | (\$35.6) | - |

\$ in millions

The following table summarizes the estimated savings impact of the program by residential and commercial utility customers.

| Commercial and Residential Impact | | | Avg. Savings | |
|-----------------------------------|----------------|---------------------|--------------|---------------|
| Customer Type | Customers | Savings | Total | Monthly |
| Commercial - NG | 24,984 | \$2,625,553 | \$105.09 | \$26.27 |
| Residential - NG | 247,735 | \$7,523,389 | \$30.37 | \$7.59 |
| Natural Gas Subtotal | 272,719 | \$10,148,942 | | |
| Commercial - Elec | 62,207 | \$14,699,321 | \$236.30 | \$59.07 |
| Residential - Elec | 445,366 | \$10,791,215 | \$24.23 | \$6.06 |
| Electricity Subtotal | 507,573 | \$25,490,536 | | |
| Commercial | 87,191 | \$17,334,872 | | |
| Residential | 693,101 | \$18,304,605 | | |
| Total | 780,292 | \$35,639,477 | | |

ANALYSIS AND BACKGROUND

Background: A public service corporation (PSC), also known as a public utility company is a corporation or other non-governmental business entity which delivers certain services considered essential to the public interest. Examples include utility companies such as natural gas, pipeline, electricity, water supply, sewer, and telecommunication companies. They also include services such as transportation of passengers or property as a common carrier, such as airlines, railroads, trucking, bus, and taxicab companies.

In Rhode Island public service corporations are required to pay an annual tax based on their gross earnings or a minimum of \$100, whichever is greater. The tax rate varies by utility and are summarized in the following table:

| Activity | Rate |
|------------------------|-------|
| Steamboat/Ferryboat | 1.25% |
| Gas | 3.00% |
| Electric | 4.00% |
| Telegraph | 4.00% |
| Telecommunications | 5.00% |
| Cable (Public Service) | 8.00% |

PSC's remit estimated tax payments quarterly in equal amounts. Refunds or additional payments are made after true liability is determined at the end of the tax year. All payments are deposited as general revenues.

The consensus November 2022 estimates for public service corporations tax (PSCT) revenue are \$101.0 million and \$95.0 million in FY2023 and FY2024, respectfully. Revenue from the PSCT from electric utility companies averaged \$51.1 million from FY2020 to FY2022, and \$15.8 million from natural gas utilities for the same period. Electric utility PSCT revenue averaged 52.1 percent of total PSCT collections for the same three-year period and gas PSCT revenue averaged 16.4 percent.

Article 2 Changes: According to the Office of Management and Budget, the PSCT modifications included in Article 2 are intended to provide residential and commercial utility customers with savings on their natural gas and electric bills during the current winter. The savings is accomplished through customer credit and utility rebate mechanism provided for within the article.

- **Eligibility and Period:** Article 2 authorizes the PSCT modification program for the four months beginning December 2022 through March 2022. Eligible customers must be individuals or businesses who purchase electricity and/or natural gas from a public utility company during the authorized months. Similarly, a utility company that may be eligible for a rebate under the program must meet the definitions of both public service company and corporation according to State statute and has sold natural gas and/or electricity to utility customers during the authorized period. The provisions of the article are effective upon passage.

Analyst Note: The Governor's FY2023 Supplemental Budget was submitted to the General Assembly on January 19, 2023, over a month into the authorized time period of the proposed PSCT modification program. Because of this the program will require retroactive implementation. Furthermore, if the customer savings are to be realized in a timely manner, this article or similar legislation would have to be enacted during the first three months of the General Assembly session. It has been indicated by the Office of Management and Budget that a separate standalone bill is expected to be introduced to provide the opportunity for the General Assembly to act on the proposal without impacting the overall timing of the consideration of the budget.

- **Credits and Rebates:** Because the PSCT is collected through a quarterly estimated payment structure, a credit and rebate mechanism is used to provide end savings to the customers. Under the article the mechanism:
 - Requires that an eligible utility company continue to make estimated PSCT payments according to the current law payment schedule during the period of the program.
 - Provides for a rebate payment to be made to eligible utility companies in the amount equal to the PSCT due that would be charged to customers for the authorized period.
 - Requires that eligible utility companies not charge customers the tax, but rather show on customers' bills the amount of what the tax would be based on their utility usage accompanied by a credit equal to that amount.
 - Provides that Taxation must determine the amount of potential rebates and that utility companies must apply to Taxation to receive the rebate. Taxation must develop the formal process and application by May 31, 2023. Rebates will be paid directly to utility companies by Taxation. Rebates cannot be considered offsets or receipts for tax liability calculations.
- **Fraud Provisions:** Article 2 also establishes a \$10 penalty per registered active account against any utility company that submits a fraudulent application or fails to otherwise comply with rules of the program. Rebates received fraudulently must be paid back to Taxation and refunds must be given to customers who erroneously pay the tax.
- **Impact:** The Office of Revenue Analysis (ORA) estimates that the program will result in revenue losses of \$10.1 million and \$25.5 million, from natural gas PSCT changes and electricity PSCT changes, respectively, totaling \$35.6 million less in FY2023. ORA derived the estimates by calculating the increase in the average bill between the same months of the previous year and the months of the proposed rebate (December 2022 – March 2023). ORA determined that the average natural gas bills

for the four-month period increased 19.0 percent and electricity bill grew by 30.4 percent in December and 255.5 percent in January through March. These growth rates were then used to calculate an estimate of gross receipts for each utility for the December-March period. The applicable PSCT rate was then applied to the gross receipt estimate to determine the fiscal impact shown noted above.

Article 3: Relating to Effective Date

This article provides that the Act will take effect upon passage.



FY2024 BUDGET ARTICLES

Article 1: Relating to Making Appropriations in Support of FY2024

Article 1 outlines the appropriation amounts from all fund sources for FY2024. 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; outlines expenditures from the federal American Rescue Plan Act of 2021 and, disbursements of Lottery, Temporary Disability Insurance, and Employment Security. The article also:

- Sets the airport impact aid formula at \$1.0 million.
- Authorizes 15,591.5 FTE positions reflecting a net increase of 136.0 FTE positions, as compared to the authorized level set in the FY2023 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 FY2025. In addition, the Office of the Postsecondary Commissioner shall provide \$8.6 million be allocated to the Rhode Island Promise Scholarship program, \$2.5 million be allocated to the Fresh Start Scholarship Program at the Community College of Rhode Island, \$355,000 to support the Rhode Island College Crusade, \$151,410 to support the State's membership in the New England Board of Higher Education, and \$75,000 be allocated to Best Buddies 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.
- 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 on the amount of funding provided to the program.
- Clarifies that the federal funds do not include federal funds or assistance appropriated, authorized, allocated, or apportioned to the State from the State Fiscal Recovery Fund and Capital Projects Fund pursuant to the American Rescue Plan Act of 2021. Requires that all unexpended or unencumbered balances relating to the State Fiscal Recovery Fund and Capital Projects Fund be reappropriated to FY2025 and made available for the same purposes.
- Includes the appropriation mechanism necessary for incremental tax revenues collected from State economic activity taxes generated in Pawtucket's Downtown Redevelopment district to be made available to the City. Legislation enacted in 2019 established several geographical districts within downtown Pawtucket that would constitute the City of Pawtucket's Downtown Redevelopment project. Any incremental tax revenues generated in these districts related to new economic development are to be made available to the City once an agreement is made between City and the State. This agreement was entered into in December 2020. Since the passage of the legislation, CommerceRI has been certifying these revenues and the Division of Taxation has segregated them into their own account. The language makes the formal appropriation in the Budget to disburse the funds to the City of Pawtucket.
- Article 1 requires the State Controller to transfer \$55.0 million to the Supplemental State Budget Reserve Account by July 14, 2023. In addition, the article requires the State Controller to transfer \$79.1 million from the Information Technology restricted receipt account to the Large Systems Initiatives Fund by July 14, 2023.

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, 2024.

| <u>Expenditures by Source</u> | <u>FY2022 Final</u> | <u>FY2023 Enacted</u> | <u>FY2024 Governor</u> | <u>Change to Enacted</u> |
|-------------------------------|---------------------|-----------------------|------------------------|--------------------------|
| General Revenue | \$5,236.5 | \$5,042.2 | \$5,302.8 | \$260.6 |
| Federal Funds | 5,326.6 | 5,708.4 | 5,526.0 | (182.4) |
| Other Funds | 2,055.1 | 2,398.4 | 2,535.4 | 137.0 |
| Restricted Receipts | 318.4 | 453.5 | 386.8 | (66.7) |
| Total | \$12,936.6 | \$13,602.5 | \$13,751.0 | \$148.5 |

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

In addition, Article 1 provides for the annual appropriation of the Contingency Fund; Temporary Disability Insurance Funds (TDI); Employment Security (UI Trust Fund); CollegeBoundSaver Funds; and, Lottery Division funds for award winnings during FY2024.

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

- **Supplemental State Budget Reserve Account:** The Budget requires the State Controller to transfer \$55.0 million to the Supplemental State Budget Reserve Account by July 14, 2023 (FY2024). Article 2, Section 3 establishes the new budget reserve account to provide additional reserve funds that can be appropriated when a general revenue deficit occurs. Expenditures from the supplemental account would be subject to the same limitations as the existing Rainy Day Fund, and deposits are subject to appropriation.
- **Administration – Large Systems Initiatives Fund:** The Budget appropriates \$27.0 million in general revenue to establish a new fund similar to the current Information Technology Investment Fund for the purpose of implementing and maintaining enterprise-wide software projects. The Fund would be established using \$27.0 million from the FY2022 general revenue surplus, of which \$22.0 million will be allocated to transitioning the RIKidsBridge Child Support Case Management System from a legacy-based system to a web-based platform. In addition, \$5.0 million will be allocated to the Gateway to Government to expand the current Digital Government pilot program to transition licensing processes to a paperless platform.
- **Labor and Training – Direct Care Training:** The article requires \$600,000 in general revenue be used for enhanced training for direct care and support services staff to improve the resident quality of care for nursing facility residents.
- **BHDDH – DD Consent Decree:** The State has been under a Consent Decree with the United States Department of Justice since 2014, requiring the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) to foster more supportive and less isolated employment opportunities and day services for individuals with intellectual and developmental disabilities. With the Consent Decree scheduled to end in FY2024, the State has agreed to an action plan to ensure the requirements of the Consent Decree are fulfilled. Article 1 allocates \$14.0 million in general revenue (\$30.8 million all funds) for direct support professional wage increases.
- **Graduate Medical Education:** The article allocates \$2.5 million in general revenue for the Graduate Medical Education programs, of which \$1.0 million for hospitals designated as a Level I Trauma Center, \$1.0 million for hospitals providing Neonatal Intensive Care Unit (NICU) care, and \$500,000 for the residential training program at Landmark Hospital.
- **RIDE - Rhode Island Vision Education and Services Program:** The article requires that \$684,000 from the Department of Elementary and Secondary Education’s share of federal Individuals with Disabilities Education Act funds be allocated to the Sherlock Center on Disabilities to support the Rhode Island Vision Services Program.

- **RIDE - Education Aid:** The article prioritizes the allocation of early childhood funds for prekindergarten seats and classrooms for four-year-olds with a family income at or below 185.0 percent of federal poverty guidelines and who reside in communities with higher concentrations of low performing schools. In addition, \$8.5 million of the appropriated general revenues must be used to ensure that the total amount of funds received by any local education agency (LEA) pursuant to the education funding formula in FY2024 is not less than the amount received in FY2023.
- **Corrections – Sex Offender Discharge:** The Budget allocates \$1.0 million to Crossroads Rhode Island for sex offender discharge planning.

INTERNAL SERVICE FUNDS

Article 1 authorizes 15 specific, capped internal service accounts to permit reimbursement of costs for work or other services performed by certain departments or agencies for any other department or agency. The FY2018 Budget as Enacted established centralized accounts for each agency and allows the Department of Administration to draw upon these accounts for billable centralized services and deposit the funds into the rotary accounts under the Department of Administration. Reimbursements may only be made up to the expenditure cap for each account, as outlined below.

| Internal Service Account | FY2023 Enacted | FY2024 Governor | Change |
|--|----------------------|----------------------|---------------------|
| State Assessed Fringe Benefits | \$37,370,321 | \$37,390,672 | \$20,351 |
| Administration Central Utilities | 27,355,205 | 39,364,206 | 12,009,001 |
| State Central Mail | 7,303,550 | 8,076,555 | 773,005 |
| State Telecommunications | 3,513,931 | 3,659,422 | 145,491 |
| State Automotive Fleet | 12,869,107 | 13,069,648 | 200,541 |
| Surplus Property | 3,000 | 44,789 | 41,789 |
| Health Insurance | 272,697,174 | 272,732,438 | 35,264 |
| Other Post-Employment Benefits | 63,858,483 | 63,858,483 | - |
| Capital Police | 1,380,836 | 1,411,825 | 30,989 |
| Corrections Central Distribution Center | 7,524,912 | 7,506,586 | (18,326) |
| Correctional Industries | 8,472,206 | 8,220,004 | (252,202) |
| Secretary of State Records Center | 1,143,730 | 1,175,426 | 31,696 |
| Human Resources Internal Service Fund | 15,991,654 | 17,117,623 | 1,125,969 |
| DCAMM Facilities Internal Service Fund | 47,011,910 | 61,150,543 | 14,138,633 |
| Information Technology Internal Service Fund | 50,789,409 | 56,136,183 | 5,346,774 |
| Total | \$557,285,428 | \$590,914,403 | \$33,628,975 |

FTE POSITIONS

Article 1 establishes the authorized number of full-time equivalent (FTE) positions for each State department and agency. Departments and agencies may not exceed in any pay period the number of authorized FTE positions shown. Statewide, the Budget has a net increase of 136.0 FTE positions from the FY2023 Budget as Enacted. The following table lists the FTE amounts by budget function:

| FTE Positions by Function | FY2023 Enacted | FY2024 Governor | Change to Enacted |
|---------------------------------------|-----------------|-----------------|-------------------|
| General Government | 2,494.4 | 2,529.4 | 35.0 |
| Human Services | 3,734.3 | 3,782.3 | 48.0 |
| Education | 4,223.4 | 4,238.4 | 15.0 |
| Public Safety | 3,275.6 | 3,309.6 | 34.0 |
| Natural Resources | 449.0 | 457.0 | 8.0 |
| Transportation | 755.0 | 755.0 | - |
| Subtotal | 14,931.7 | 15,071.7 | 140.0 |
| <i>Higher Ed. Sponsored Positions</i> | <i>523.8</i> | <i>519.8</i> | <i>(4.0)</i> |
| Total FTE Positions | 15,455.5 | 15,591.5 | 136.0 |

COMMUNITY SERVICE OBJECTIVES

The FY2017 Budget as Enacted changed the Community Service Objective (CSO) Grants program. Previously, CSO grants were funded in executive agency budgets, but were not specifically delineated in the appropriations act. The program now consists of 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 FY2023 Budget as Enacted includes \$13.7 million in general revenue for CSO grant awards across 14 state agencies. The FY2024 Budget recommends an appropriation of \$11.8 million in general revenue in FY2024, a decrease of \$1.9 million from the previously enacted budget. The Budget recommends increasing the following grants; Senior Center Support \$200,000, Project Reach – Boys and Girls Club \$100,000, and Higher Ground International for \$25,000. The Budget decreases the following grants: Community Action Fund – Pandemic Relief \$1.4 million, RI Alliance of Boys and Girls Clubs \$750,000, and the RI School for Progressive Education. The Budget includes two new CSO awards; Operation Stand Down \$50,000 and Rhode Island Slave History Medallions \$25,000.

| Agency | Grant Recipient | FY2023 | FY2024 | Change |
|--------------------------------------|---|---------------------|---------------------|----------------------|
| | | Enacted | Governor | |
| Administration | City Year - Whole School Whole Child Program | \$130,000 | \$130,000 | \$0 |
| Executive Office of Commerce | STAC Research Alliance | 900,000 | 900,000 | - |
| Executive Office of Commerce | Polaris Manufacturing Technical Assistance Program | 450,000 | 450,000 | - |
| Executive Office of Commerce | Chafee Center at Bryant | 476,200 | 476,200 | - |
| Executive Office of Commerce | Urban Ventures | 140,000 | 140,000 | - |
| Executive Office of Commerce | East Providence Waterfront Commission | 50,000 | 50,000 | - |
| Labor and Training | Year Up | 200,000 | 200,000 | - |
| Secretary of State | Rhode Island Historical Society | 125,000 | 125,000 | - |
| Secretary of State | Newport Historical Society | 18,000 | 18,000 | - |
| Human Services - Healthy Aging | Diocese of Providence - Elder Services | 325,000 | 325,000 | - |
| Human Services - Healthy Aging | Alliance for Long Term Care Ombudsman Services | 40,000 | 40,000 | - |
| Human Services - Healthy Aging | Elderly Housing Security | 85,000 | 85,000 | - |
| Human Services - Healthy Aging | Elderly Nutrition | 50,000 | 50,000 | - |
| Human Services - Healthy Aging | Meals on Wheels | 530,000 | 630,000 | 100,000 |
| Human Services - Healthy Aging | Senior Center Support | 1,000,000 | 1,200,000 | 200,000 |
| Human Services | Coalition Against Domestic Violence | 400,000 | 400,000 | - |
| Human Services | Project Reach - Boys and Girls Club | 350,000 | 450,000 | 100,000 |
| Human Services | Day One | 267,000 | 267,000 | - |
| Human Services | RI Community Food Bank | 450,000 | 450,000 | - |
| Human Services | Crossroads Rhode Island | 500,000 | 500,000 | - |
| Human Services | Institute for the Study and Practice of Nonviolence | 250,000 | 250,000 | - |
| Human Services | Operation Stand Down | - | 50,000 | 50,000 |
| Human Services | Veterans' Organizations | 200,000 | 200,000 | - |
| Human Services | Community Action Fund | 600,000 | 600,000 | - |
| Human Services | Community Action Fund - Pandemic Relief | 1,400,000 | - | (1,400,000) |
| Human Services | Higher Ground International | 50,000 | 75,000 | 25,000 |
| Human Services | Refugee Dream Center | 50,000 | 50,000 | - |
| Human Services | RI Alliance of Boys and Girls Clubs | 750,000 | - | (750,000) |
| Education | Hasbro Children's Hospital - Hospital School | 90,000 | 90,000 | - |
| Education | Child Opportunity Zones | 395,000 | 395,000 | - |
| Office of Postsecondary Commissioner | Rhode Island College Crusade | 355,000 | 355,000 | - |
| Office of Postsecondary Commissioner | Best Buddies Rhode Island | 75,000 | 75,000 | - |
| Office of Postsecondary Commissioner | RI School for Progressive Education | 200,000 | - | (200,000) |
| University of Rhode Island | Small Business Development Center | 700,000 | 700,000 | - |
| University of Rhode Island | Institute for Labor Studies and Research | 100,000 | 100,000 | - |
| University of Rhode Island | Special Olympics Rhode Island | 50,000 | 50,000 | - |
| Arts Council | WaterFire Providence | 375,000 | 375,000 | - |
| Historical Preservation | Fort Adam's Trust | 30,000 | 30,000 | - |
| Historical Preservation | Rhode Island Slave History Medallions | - | 25,000 | 25,000 |
| Corrections | Crossroads Rhode Island | 1,050,000 | 1,050,000 | - |
| Judicial | Rhode Island Coalition Against Domestic Violence | 230,000 | 230,000 | - |
| Judicial | Rhode Island Legal Services | 90,000 | 90,000 | - |
| Environmental Management | Wildlife Rehabilitators Association of RI | 100,000 | 100,000 | - |
| Environmental Management | Conservation Districts | 50,000 | 50,000 | - |
| Total | | \$13,676,200 | \$11,826,200 | (\$1,850,000) |

Analyst Note: The budget includes a \$25,000 community service objective grant in the Department of Human Services for the Center for Southeast Asians. The amount is included in the budget; however, the proviso language directing the grant was inadvertently excluded from Article 1. We expect a technical amendment from the Administration to correct the omission.

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, 2025, June 30, 2026, June 30, 2027, and June 30, 2028. These amounts supersede appropriations provided for FY2024 within the FY2023 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.

STATE FISCAL RECOVERY FUNDS

Sections 16, 17, and 18 of this article pertain to the authorization and appropriation of the State Fiscal Recovery Fund (SFRF) and Capital Projects Fund (CRF) federal funds.

- Section 16 clarifies that the federal funds do not include federal funds or assistance appropriated, authorized, allocated, or apportioned to the State from the State Fiscal Recovery Fund and Capital Projects Fund pursuant to the American Rescue Plan Act of 2021. This section consolidates the projected out-year appropriations of the State Fiscal Recovery Fund and Capital Projects Fund, to be expended during the fiscal year ending June 30, 2024; and includes language outlining the various SFRF projects.
- Section 17 requires that all unexpended or unencumbered balances relating to the SFRF and Capital Projects Fund, be reappropriated to the ensuing fiscal year and made available for the same purposes.
- Section 18 continues the Pandemic Recovery Office within the Department of Administration to oversee and ensure compliance with the rules, regulations, and guidance issued by the United States Department of the Treasury of expenditures from the SFRF and Capital Projects Fund. The Pandemic Recovery Office will be responsible for submitting all reports required by the United States Department of the Treasury for the SFRF and Capital Projects Fund.

Article 2: Relating to State Funds

This article establishes a new Large Systems Initiative Fund (LSIF) and a new Supplemental State Budget Reserve restricted receipt account; changes the name of the Information Technology Investment Fund to the Investment Technology Restricted Receipt Account; exempts a new Executive Climate Change Coordinating Council Projects restricted receipt account from imposition of the 10.0 percent indirect cost recovery charge; and, shifts Division of Motor Vehicles (DMV) duplicate license/updated information fee revenue from general revenue to the State's Highway Maintenance Account in FY2024. The article:

- Establishes the Large Systems Initiative Fund (LSIF) similar to the current Information Technology Investment Fund for the purpose of implementing and maintaining enterprise-wide software projects, in order to better facilitate federal participation in large information technology projects. The LSIF shall be administered by the Chief Information Officer within the Department of Administration. Language included in Article 1 of the Budget requires the State Controller to transfer \$79.1 million from the Information Technology restricted receipt account to the Large Systems Initiative Fund by July 14, 2023. The LSIF shall consist of funds as appropriated by the State.
- Amends several sections of general law striking reference to the Information Technology Investment Fund and replaces it with the term Investment Technology Restricted Receipt Account.
- Establishes the Supplemental State Budget Reserve Account to provide additional reserve funds that can be appropriated when a general revenue deficit occurs. Language included in Article 1 of the Budget requires the State Controller to transfer \$55.0 million to the Supplemental State Budget Reserve Account by July 14, 2023.
- Exempts one new restricted receipt account from the 10.0 percent indirect cost recovery charge provisions and changes the name of an existing restricted receipt account. The proposed exemptions would apply to the following account: Executive Climate Change Coordinating Council Projects. In addition, the article revises the name of the Information Technology Investment Fund to the Information Technology restricted receipt account.
- Shifts Division of Motor Vehicles (DMV) duplicate license/updated information fee revenue from general revenue to the State's Highway Maintenance Account (HMA) in FY2024. The Transportation Investment and Debt Reduction Act of 2011 (TIDRA) created the HMA within the Intermodal Surface Transportation Fund (ISTF). The account is currently funded via surcharges associated with licenses, vehicle registrations, inspection stickers, titles, and other related DMV fees. The HMA is used for projects that appear in the State's transportation improvement program. The FY2019 Budget as Enacted consolidated the duplicate license fee with the updated information fee, effectively increasing the latter's fee revenue by \$20. The additional revenue was diverted to general revenue rather than deposited in the HMA, in order to fund increased personnel costs associated with an anticipated surge in licensing activity related to the implementation of the RealID program. This surge never materialized and the Governor recommends shifting these fees from general revenue to the HMA, consistent with the original intent of the TIDRA.

FISCAL IMPACT

The article exempts \$4.5 million in annual restricted receipt revenues that will be transferred to the Executive Climate Change Coordinating Council from the 10.0 percent indirect cost recovery charge provisions. Had these accounts not been exempt, the accounts would have transferred a total of \$450,000 in FY2023 and in future years to the general fund.

- Language included in Article 1 of the Budget requires the State Controller to transfer \$55.0 million from the FY2022 surplus funds to the Supplemental State Budget Reserve Account by July 14, 2023.

- Language in Article 5 requires the Public Utilities Commission to transfer \$4.5 million from the Demand-side Management Gas and Electric Funds to the Rhode Island Energy Office, to fund the Executive Climate Change Coordinating Council for climate change initiatives. Had these accounts not been exempt, the accounts would have transferred a total of \$450,000 in FY2023 and in future years to the general fund.
- Language included in Article 1 of the Budget requires the State Controller to transfer \$79.1 million from the Information Technology Restricted Receipt account to the Large Systems Initiative Fund by July 14, 2023.
- The transfer of DMV duplicate license fees from general revenue to the Highway Maintenance Account will reduce general revenue by \$950,000 in FY202. RIGL 39-18.1-4(c) sets the indirect cost recovery (ICR) charge at 5.0 percent on funds collected under the Highway Maintenance account statute. This percentage of the ICR differs from the 10.0 percent on restricted receipts as set under RIGL 35-4-27.

ANALYSIS AND BACKGROUND

Investment Technology Restricted Receipt Account

Sections 1, 2, 5, 6, and 8 amends several sections of general law including RIGL 23-3-25, 31-2-27, 37-2-12, and 39-21.1-14 striking reference to the Information Technology Investment Fund and replaces it with the term Investment Technology Restricted Receipt Account.

Supplemental State Budget Reserve Account

In 1990, the Budget Reserve and Cash Stabilization Account, or Rainy Day Fund, was created to establish a fiscal cushion for the State when actual revenues received are less than State expenditures (deficit). The account is funded by limiting annual State general revenue appropriations to a percentage (currently 97.0 percent) of available revenues. Excess funds are deposited into the Rainy Day Fund. The spending limitation, Rainy Day Fund, and the disposition of excess funds are governed by provisions in the RI Constitution and General Laws.

RIGL 35-3-20 institutes a cap on the balance of the Rainy Day Fund, which gradually increased between FY2007 and FY2013. Since FY2013, the balance of the Fund has been capped at 5.0 percent of general revenues. When the limit is reached, excess funds are transferred to the Rhode Island Capital Plan (RICAP) fund for capital improvement projects.

FY2020 closed with \$90.7 million in the Rainy Day Fund. In FY2020, the State used \$120.0 million from the fund to balance the budget. Rhode Island General Law requires that the repayment be made to the Rhode Island Capital Plan fund in the following fiscal year. The FY2021 Supplemental Budget included a \$120.0 million repayment to the RICAP fund.

| Rainy Day Fund Deposit | States |
|--------------------------------------|---|
| All or a portion of year-end surplus | Georgia, Kentucky, Minnesota, Mississippi, Montana, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Vermont, West Virginia, Wisconsin |
| Portion of total or special revenues | Alaska, California, Rhode Island, Wyoming |
| Tied to revenue or economic growth | Arizona, Idaho, Illinois, Indiana, Michigan, North Carolina, Tennessee, Virginia |
| Required minimum balance | Colorado, Florida, Iowa, Missouri, South Carolina |
| Combination | Connecticut, Delaware, DC, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Nebraska, Nevada, New Hampshire, Texas, Washington |
| No required payments | Alabama, Arkansas, Kansas |

Source: TPC Rainy Day Fund Deposit Mechanisms March 2020

In Section 3 of this article, the Governor proposes to create a supplementary budget reserve fund in FY2024, with the potential to later amend the state constitution to increase the 5.0 percent revenue cap on the existing fund balance. As part of the FY2024 appropriations act, the Governor transfers \$55.0 million in surplus funding by July 14, 2023, into a “State Supplemental Budget Reserve Account”. Expenditures from the supplemental account would be subject to the same limitations as the existing Rainy Day Fund, and deposits are subject to appropriation.

The Governor's proposal projects a Rainy Day Fund balance of \$271.4 million at the end of FY2023, increasing to \$276.6 million in FY2024. Of note, the FY2024 projected balance does not include the \$55.0 million supplemental budget reserve funding.

A larger fund balance would better position Rhode Island to weather economic downturns and would be viewed favorably by ratings agencies. Both the Tax Policy Center (TPC) and the Center on Budget and Policy Priorities (CBPP) recognize Rainy Day Funds in excess of 15.0 percent as best practice post Great Recession. According to the CBPP, "since the Great Recession, a number of states have raised their caps. Connecticut, Georgia, Michigan, Oklahoma, and Virginia raised theirs to 15.0 percent; Arizona increased its cap from 7.0 percent to 10.0 percent and South Carolina raised it from 3.0 percent to 5.0 percent."

According to The Tax Policy Center's Briefing Book March 2020: The cap is percentage of either revenues or expenditures, although there are states have more complex formulas for determining maximum fund size. Most states that finance their Rainy Day Fund with operating surpluses stop transfers once the cap has been reached, allowing the surplus to remain in the general fund. A few states redirect those operating surpluses to other funds for special projects or taxpayer relief.

The percentage for Rhode Island is equal to Vermont but far lower than the other New England states:

| New England | Rate | Cap or Target |
|---------------------|-------------|---|
| Maine | 18.0% | Current FY general fund appropriations |
| Connecticut | 15.0% | Current FY general fund appropriations |
| Massachusetts | 15.0% | Prior FY budgeted revenue |
| New Hampshire | 10.0% | Prior FY general fund revenue |
| Rhode Island | 5.0% | Current FY estimated state general revenue |
| Vermont | 5.0% | Prior FY general fund appropriations |

Source: PEW Charitable Trust's Why States Save

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. Beginning in FY2023, the article exempts \$4.5 million in annual restricted receipt revenues that will be transferred to the Executive Climate Change Coordinating Council from the 10.0 percent indirect cost recovery charge provisions. Had these accounts not been exempt, the accounts would have transferred a total of \$450,000 in FY2023 and in future years to the general fund.

Section 4 of this article amends the name of one restricted account and expands the list to include a new account:

- **Information Technology Restricted Receipt Account:** The article changes the name of the Information Technology Investment Fund to the Investment Technology Restricted Receipt Account. The change in account has no impact on transfers to the general fund.
- **Executive Climate Change Coordinating Council Projects:** The article adds the Executive Climate Change Coordinating Council Projects to the list of restricted receipt accounts that are exempt from the 10.0 percent indirect cost recovery charge on most state restricted receipt accounts.

Analysis Note: Article 5 section 4 requires the Public Utilities Commission to transfer \$4.5 million from the Demand-side Management Gas and Electric Funds to the Rhode Island Energy Office to fund the Executive Climate Change Coordinating Council for climate change initiatives.

Rhode Island Highway Maintenance Fund

Section 7 shifts Division of Motor Vehicles (DMV) duplicate license/updated information fee revenue from general revenue to the State's Highway Maintenance Account (HMA) in FY2024. The Transportation

Investment and Debt Reduction Act of 2011 (TIDRA) created the HMA within the Intermodal Surface Transportation Fund (ISTF). The account is currently funded via surcharges associated with licenses, vehicle registrations, inspection stickers, titles, and other related DMV fees. The HMA is used for projects that appear in the State's transportation improvement program. The FY2019 Budget as Enacted consolidated the duplicate license fee with the updated information fee, effectively increasing the latter's fee revenue by \$20. The additional revenue was diverted to general revenue rather than deposited in the HMA in order to fund increased personnel costs associated with an anticipated surge in licensing activity related to the implementation of the RealID program. This surge never materialized and the Governor recommends shifting these fees from general revenue to the HMA, consistent with the original intent of the TIDRA.

Large Systems Initiative Fund

Section 9 of this article establishes a new Large Systems Initiative Fund (LSIF) similar to the current Information Technology Investment Fund (ITIF) for the purpose of implementing and maintaining enterprise-wide software projects, in order to better account for appropriations versus expenditures on the State's financial statements and to facilitate federal participation in large information technology projects. The cost of enterprise IT projects may be allocated to federal funds provided that the allocation is in proportion to the support it provides to federally funded activities. For a capital development project, however, the costs may only be charged to a federal fund after the project is completed and placed in service. Then the value of the asset is amortized over the life of the of the equipment with federal funds used to pay the depreciation of the product that is used in proportion with the federal fund use of the product.

The LSIF would be administered by the Chief Information Officer within the Department of Administration and will be used to fund the larger IT projects that are capitalized by general revenue appropriations. The ITIF will remain, under the name change to the Information Technology Restricted Receipt (ITRR) account, to fund smaller projects using the dedicated restricted receipt revenue stream

The Governor proposes to transfer \$79.1 million from the Information Technology Investment Fund restricted receipt account to the Large Systems Initiative Fund, by July 14, 2023. These funds reflect balances in the Fund that were previous appropriations to capitalize the ITIF in FY2021 and FY2022.

- The FY2021 appropriation included \$50.0 million was used to implement the Enterprise Resource Planning System (ERP) and \$17.0 million was used to the replace the Department of Children, Youth, and Families' case management system known as RICHIST.
- The FY2022 appropriation included \$75.0 million was used for additional Enterprise Resource Planning System (ERP) and RICHIST work, as well as \$22.4 million for the implementation of an electronic medical records system for the state hospitals, \$19.4 million be available for the replacement and modernization of the Legacy mainframe system in the Department of Labor and Training, \$6.7 million for RIBridges Mobile and Childcare Tracking, \$2.5 million for Blockchain Digital Identity, \$5.8 million for the Department of Environmental Management's online permit and licensing system for fish and wildlife, commercial fishing and boating registrations, \$3.3 million for Wi-Fi and Technology at the Adult Correctional Institutions, and \$2.3 million for the tax modernization system.

In addition, the Budget includes a \$27.0 million general revenue appropriation to capitalize the Large Systems Initiative Fund (LSIF). The Governor proposes that \$22.0 million from the appropriation to the LSIF be allocated to transitioning the RIKidsBridge Child Support Case Management System within the Department of Health, from a legacy mainframe application to a web-based platform. The Budget allocates the remaining \$5.0 million to support the new Gateway to Government initiative that expands the Digital Government Pilot Program in the Department of Business Regulation.

Article 3: Relating to Government Reform and Reorganization

Article 3 makes several changes to the organization of state government. Specifically, the article:

- Establishes the Rhode Island Longitudinal Data System Act (RILDS), which shifts 4.0 Sponsored Research FTE positions from URI to the Office of the Postsecondary Commissioner and adds 3.0 additional FTE positions to support the RILDS.
- Increases the number of members on the Inter-Agency Food and Nutrition Advisory Council to 9.0 and includes Directors, or designees, from the Executive Office of Commerce and the Department for Children, Youth, and Families.
- Amends the definition of bridge and defines the State's responsibilities for bridges and smaller structures.
- Amends state law to align with the federal Burial Equity for Guards and Reserve Act, which was signed into law by President Biden on March 15, 2022.
- Expands the responsibilities of the Director of the Office of Management and Budget (OMB) to conduct reviews, evaluations, and assessments on process efficiency, effectiveness, and program performance on executive branch agencies.
- Amends RIGL 35-3-24.1 regarding program performance measurement by requiring state agencies to provide timely reports, records, and analyses relating to state agency programs and operations. The article authorizes the OMB to produce analyses and recommendations to state agencies to improve program performance.
- Increases the percentage of procurements and construction projects awarded to Minority Business Enterprises (MBEs) to 15.0 percent. 7.5 percent of projects will be awarded to minority businesses owned and controlled by a minority partner, and 7.5 percent of projects will be awarded to businesses owned and controlled by women.
- Eliminates the requirement for individuals enrolled in the State Police and Municipal Training Academy to reimburse the State for the cost of meals consumed.
- Removes the requirement of Correctional Officers to actively monitor individuals in-person that are serving life sentences without parole, if individuals are confined to a medical facility and the presence of Correctional Officers do not provide additional safety to the public
- Repeals the Underground Storage Tank Advisory Board. According to the Administration, the Board is largely defunct since it does not currently have any members and no longer holds meetings.

FISCAL IMPACT

Several of the initiatives in this article have an impact on expenditures in the Governor's FY2024 Budget. The impact is summarized in the following table.

| Article 3 Expenditure Changes | FY2024 | | |
|---|------------------|------------------|---------------------|
| | General Revenue | Federal | Restricted Receipts |
| Rhode Island Longitudinal Data System Act (RILDS) | \$575,000 | \$466,125 | \$64,000 |
| No Correctional Officer's in Medical Facilities | (488,545) | - | - |
| Burial Equity for Guards and Reserve Act | 344,340 | - | - |
| OMB Program Performance (RIGL 35-3-24.1) | 303,047 | - | - |
| Trainee Trooper Meal Plan | 88,000 | - | - |
| Total | \$821,842 | \$466,125 | \$64,000 |

ANALYSIS AND BACKGROUND:***Rhode Island Longitudinal Data System Act (RILDS)***

The article establishes the Rhode Island Longitudinal Data System Act (RILDS) within the Office of the Postsecondary Commissioner. The RILDS, previously known as the RI Data HUB, was built, maintained, and operated by DataSpark at URI. It centralizes more than 50 previously isolated datasets from eleven sources over three decades and has been used by DataSpark to inform policy and resource allocation, improve student learning and outcomes, promote workforce and economic development, and address equity issues. Currently, the data system consists of more than 50 data sets from early childhood through secondary education and into the workforce. Modern systems, such as the Kentucky Center for Statistics (KYSTATS), also integrate health and human services data, information about the environment, justice, and transportation. The intent of the article is to formalize the RILDS and provide for possible expansion into areas that support the State’s priorities, inform policymaking, and support program evaluation.

The proposal shifts 4.0 Sponsored Research FTE positions from URI to the Office of the Postsecondary Commissioner and adds 3.0 additional FTE positions to support the RILDS. The Budget provides \$575,000 in general revenue in FY2024 to support the salaries and benefits of positions that will not be covered by federal grants.

The article establishes the RILDS, for budgetary purposes, with the Office of the Postsecondary Commissioner and establishes a Governing Board comprised of the following:

- An at-large member appointed by the Governor and serving as co-chair;
- The Director of any participating agencies, or a designee;
- The Director of the Office of Management and Budget (OMB), or designee;
- The Chief Information Officer of the Division of Information Technology (DOIT), or designee; and,
- The Director of the RILDS Center.

The Governing Board will have two co-chairs. The at-large member, appointed by the Governor, will be responsible for overseeing and directing the policy duties and responsibilities of the Board. The Commissioner of Postsecondary Education will serve as the second co-chair and be responsible for overseeing, supervising, and directing the operational duties of the Center and its personnel. A “participating agency” includes the Rhode Island Department of Education, the Office of the Postsecondary Education, the Rhode Island Department of Labor and Training, and any agency that executes a memorandum of understanding for recurring participation in RILDS.

The powers of the Governing Board include:

- Approval of policies regarding the management of data requests
- Approval of policies regarding the publication of reports and other information
- Approval of standards for the security, privacy, access to, and confidentiality of data
- Other functions as necessary to ensure the successful continuation, management, and expansion of the RILDS
- Establish a data governance committee to work with the Center on an ongoing basis to approve data requests and other responsibilities
- Oversee and collaborate with the data governance committee and the center to manage and operate the RILDS

The article allows for the creation of a data request fee policy and establishes a restricted receipt account, entitled “longitudinal data system-non-federal grants”, for the “express purpose of recording receipts and

expenditures of the program. The Budget includes three accounts for this program totaling \$1.1 million, including general revenue (\$575,000), federal funds (\$466,125), and restricted receipts (\$64,000).

The article will institutionalize the RILDS and, since the technical and legal infrastructure is already in place within DataSpark, Rhode Island will be able to quickly implement a competitive data system. In addition, the state funds may be used to leverage federal grants funding to expand the system.

Historically, DataSpark has been supported through federal grants from the United States Department of Education and the Rhode Island Department of Labor and Training; however, the current federal grant supporting DataSpark is expiring. Due to decreasing support over the last three years, the team has been reduced from eleven to four FTE positions. Without sustainable support, the RILDS will cease operations in FY2025.

The Inter-Agency Food and Nutrition Advisory Council

RIGL 21-36 establishes the Inter-Agency Food and Advisory Council to examine and address the lack of access to nutrient-dense and healthy foods. As of 2021, 11.4 percent of Rhode Island's population identify as food insecure, disproportionately affecting minority households and households with children under 18.

The article includes an additional 2.0 representatives from the Executive Office of Commerce and the Department of Children, Youth, and Families (DCYF). The board composition is as follows:

- The Director of Health, or their designee
- The Director of Environmental Management, or their designee
- The Director of Administration, or their designee
- The Director of the Department of Human Services, or their designee
- The Director of the Office of Health Aging, or their designee
- The Director of the Department of Corrections, or their designee
- The Director of the Executive Office of Commerce, or their designee
- The Director of the Department of Children, Youth, and Family, or their designee.

The Council has taken special interest in the economic impacts of Rhode Island's food systems and increasing access to nutrient dense food to Rhode Island's most vulnerable populations. The Executive Office of Commerce currently runs the Relish Rody program, a statewide food strategy charged with improving RI's local food economy, enhance the State's food business, minimize waste, and ensure access to healthy and culturally relevant foods for all Rhode Islanders, especially those from vulnerable populations. The Department of Youth, Children, and Families assists some of Rhode Island's most vulnerable populations. Many of the Department's clients face socioeconomic barriers preventing them from accessing nutrient dense foods. Creating a connection between the Council and the representatives from DCYF and Commerce will help align activities to increase the Council's effectiveness and increase access to nutrient-dense foods.

Bridge Structure

The article amends the definition of bridge to one that is more consistent with federal regulations and most surrounding states. The article also defines the State's responsibilities for bridges and smaller structures, which includes reporting inspection and load rating findings as well as the construction and maintenance costs of bridges that the State owns.

The State currently defines a bridge as, "any structure not less than five feet in width." The amended definition is "a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of eight (8) feet or more between under

copings of abutments, spring lines or arches, or the extreme ends of openings for multiple boxes; it also includes single or multiple pipes where the clear distance between openings of multiple pipes is less than half of the smaller contiguous opening.”

Additionally, the article redefines the State’s responsibilities concerning bridges and smaller structures. Currently, “Any structure less than five feet (5’) in width lying in any highway now being or hereafter becoming a part of the state highway system shall be constructed, repaired, or reconstructed at the expense of the state.” The recommended State responsibilities include reporting inspection and load rating findings for National Bridge Inventory on all roadways, as well as the construction and maintenance costs associated with bridges on state owned roads, structures less than eight (8) feet on State owned roads, and other state-owned structures unless otherwise agreed upon. Furthermore, the article rescinds the State’s responsibility for the construction and maintenance costs of bridges and smaller structures that are not owned by the State, as well as specifically noting that the performance of load ratings or inspections on bridges or smaller structures, does not constitute State ownership or responsibility.

Moreover, the smaller structures will be subject to a Serviceability Inspection, which is in congruence with federal inspection procedures. This process provides for an inspection that identifies major deficiencies and safety issues to be performed by personnel with general knowledge of bridge maintenance and bridge inspection. The article creates savings related to decreased maintenance and inspection costs; however, the savings is not currently budgeted. There are currently 60 bridges that will be re-defined as smaller structures pursuant to the article. Expected savings include \$26,000 for each load rating and \$7,000 for each inspection, relating to the 60 bridges being redefined. The frequency of these events varies for each structure, ranging from less than a year, to every ten years. A Serviceability Inspection, which is a Department-defined inspection process for smaller structures, will further lower costs, as opposed to a standard bridge inspection.

Rhode Island Veterans Memorial Cemetery

Historically, for a member of the National Guard to be considered eligible for burial in an officially designated veterans cemetery an individual would have to have served active-duty or in the reserves for at least 20 years and have to have been honorably-discharged. These requirements were codified in both federal and Rhode Island law. In March 2022, the federal Burial Equity for Guards and Reserve Act was enacted allowing National Guard members killed in the line of duty or honorably discharged after 6.0 years of service (either active duty or reserves) to be eligible for burial in the veterans cemetery. Section 4 of Article 3 conforms Rhode Island law with the federal Burial Equity for Guards and Reserve Act.

To accommodate operational costs associated with the Burial Equity for Guards and Reserve Act, the FY2024 Budget includes an increase of \$344,330. The Department of Veterans Affairs will not provide federal funding or reimbursements for the costs accrued as a result of increased interments.

Office of Management and Budget

Section 5 of the article amends RIGL 35-1.1-3 to expand the responsibilities of the Director of the Office of Management and Budget to conduct reviews, evaluations, and assessments on process efficiency, effectiveness, and program performance on executive branch agencies; and amends RIGL 35-1.1-9 to require executive branch agencies to cooperate with the Governor and the OMB to provide analyses and documentation to improve performance within the agencies.

State Budget – Program Performance Measurement

Section 6 amends RIGL 35-3-24.1 regarding program performance measurement by requiring state agencies to provide timely reports, records, and analyses relating to state agency programs and operations. The article authorizes the OMB to produce analyses and recommendations to state agencies to improve program performance and states that OMB may take the lead to manage and coordinate interagency collaboration.

According to the OMB current general law gives the Office the authority to manage and collect budget program performance data. The proposed changes in the article would provide OMB the ability to request programmatic and operational data on subjects not directly tied to budget performance measures.

Traditionally, state agencies been cooperative with OMB as it relates to performance management and data requests. However, OMB does not statutorily have the ability to compel an agency to perform analysis on their own data to evaluate efficiency or effectiveness. Also, smaller agencies without a dedicated analytics team may not have the capacity to perform thorough data evaluation. These statutory changes would provide OMB the ability to request data and perform the analysis internally.

Further, the updated language provides OMB greater ability to coordinate interagency analysis projects, as OMB and the Administration work to leverage data sets across agencies to evaluate program impact and effectiveness. The Governor adds \$303,047 in general revenue to fund 2.0 new FTE positions within the Performance Management program to facilitate the enhanced performance analyses as proposed in this section. The Governor provides a total of 4.0 FTE positions in the program with a total personnel cost of \$627,397 in general revenue.

Minority- and Women-Owned Business Enterprises

Section 7 amends RIGL 37-14.1-6 regarding minority business enterprise participation in state-awarded procurement and construction projects. The Governor recommends increasing the rate of participation from 10.0 percent to 15.0 percent and requires that the participation be evenly split between minority-owned business enterprises (7.5 percent) and women-owned business enterprises (7.5 percent).

RIGL 37-14.1-8 authorizes the Director of the Department of Administration, or as delegated to the Director of the Department of Transportation, to impose sanctions upon contractors not in compliance with MBE/WBE participation. The sanctions include, but are not be limited to suspension of payments, termination of the contract, recovery by the state of ten percent of the contract award price as liquidated damages, and denial of right to participate in future projects for up to three years.

According to DEDI, prior to the 2021 Disparity Study, the MBE Compliance Office did not issue sanctions against any vendor for non-compliance based on a 1989 U.S. Supreme Court case that held that all race-based state and local government programs must demonstrate that they serve a “compelling state interest” and are “narrowly tailored” to advance that interest (*City of Richmond v. J.A. Croson Co.*, 488 U.S. 469). The means to determining the constitutionality of such a race-based programs is through the completion of a disparity study (predicate study). Prior to the State’s recent contract with Mason Tillman Associates, Ltd., the State of Rhode Island had never conducted a comprehensive and legally defensible disparity study. As a result, it has long been the determination of the Legal Services Division that the State’s existing MBE statute and program would not meet constitutional or legal challenges in the absence of a current, valid disparity study. Since the disparity study, DEDI is currently in the process of sanctioning one contractor for non-compliance. The following table illustrates data on MBE/WBE awards as stated in the 2021 Disparity Study and updated by the Division of Equity, Diversity, and Inclusion.

Analyst Note: According to DEDI, the 2021 Disparity Study noted that the State did not capture subcontractor data or track subcontractor and/or supplier payments and therefore used the term “projected” instead of “actual” because the study vendor noted that they did not have the necessary statistical data to establish actual subcontractor payments.

| | Total \$ Awarded to MBE/WBE Firms | Projected \$ Awarded to MBE Firms | % of MBE Utilization | Projected \$ Awarded to WBE Firms | % of WBE Utilization | Total % Utilization | Total Value of Awards |
|--------|--|---|-------------------------|---|-------------------------|------------------------|-----------------------------|
| FY2014 | \$36.2 | \$20.4 | 2.43% | \$15.8 | 1.88% | 4.31% | \$839.9 |
| FY2015 | 34.3 | 18.3 | 2.17% | 16.0 | 1.90% | 4.07% | 842.75 |
| FY2016 | 54.2 | 25.1 | 2.93% | 29.2 | 3.41% | 6.34% | 856.24 |
| FY2017 | 50.6 | 26.9 | 4.10% | 23.7 | 3.61% | 7.71% | 656.29 |
| FY2018 | 103.7 | 50.2 | 7.11% | 53.5 | 7.58% | 14.69% | 705.92 |
| FY2019 | 104.9 | 52.0 | 6.49% | 52.9 | 6.60% | 13.09% | 801.13 |
| FY2020 | 78.7 | 43.6 | 4.36% | 35.1 | 3.51% | 7.86% | 1,001.10 |
| FY2021 | 17.2 | 13.3 | 5.90% | 3.9 | 1.73% | 7.63% | 225.30 |

\$ in millions

Source: RI Disparity Study 2021 - Mason Tillman Associates Ltd. 2014 - 2019 and DEDI 2020-2021

Meal Reimbursements for Trainee Troopers

The State currently requires individuals enrolled in the State Police and Municipal Training Academies to reimburse the State for the cost of meals consumed while at the Academies. Rhode Island is the only state in New England that requires the reimbursement and the Department believes rescinding it will allow for the recruitment of a stronger candidate pool. The change would result in an \$88,800 loss in general revenue and applies to State Troopers only.

Community Confinement

Currently, the State requires all individuals serving life sentences without parole who are confined to a medical facility to be monitored in-person by a correctional officer. The article rescinds the requirement and creates an exception for individuals incapacitated, either physically, mentally, or otherwise, in such a way that the presence of a correctional officer does not provide additional safety risks to the public or to the personnel at the medical facility. At the discretion of the Director of the Department of Corrections, such individuals would be subject to electronic surveillance or monitoring.

Additionally, if the medical condition of the individual were to improve in a way that in-person monitoring enhanced the safety of the medical facility or the public, the individual would return to in-person monitoring.

In FY2023, there is currently one incarcerated individual that the article's recommendation applies to.

The Department estimates that this provision will create \$488,545 in general revenue savings. This is calculated assuming a \$55.77 hourly overtime wage for a correctional officer with FICA included. This wage is currently being paid 24 hours a day, 365 days a year, and results in a daily cost of \$1,338.48 and an annual cost of \$488,545.

Underground Storage Tank Advisory Board

The article repeals the Underground Storage Tank Advisory Board. According to the Department of Environmental Management (DEM), the Board is largely defunct. The Board does not currently have any members and hasn't held any meetings since 2016 when legislation was passed changing the Board from a board of review to an advisory body, and transferred the Board's authority over funding to DEM. Since the Board has been vacant and inactive for years, there is no impact on current activities or expenditures.

Article 4: Relating to Taxes

This article modifies several state taxes and repeals a permit and its associated fee. Specifically, the article:

- **Postponement of the Inflation Adjustment to the Motor Fuel Tax:** Forgoes the Consumer Price Index (CPI)-related, 3.0 cent per gallon, increase to the motor fuel tax scheduled to occur in FY2024.
- **Sales Tax Reduction:** Reduces the State's sales and use tax rate from 7.00 percent to 6.85 percent starting on October 1, 2023.
- **Repeal of Litter Control Permits:** Repeals portions of the Taxation of Beverage Containers, Hard-to-Dispose Material, and Litter Control Participation Permittee Act (RIGL 44-44).

FISCAL IMPACT

The fiscal impact of Article 4's changes are summarized in the following table. For more detail see below in the analysis and background section.

| Initiative | FY2023* | FY2024 | | FY2025 | | | |
|----------------|------------------------------|--------------------------|------------------|--------------------------|--------------------------|------------------|--------------------------|
| | General Revenue Expenditures | General Revenue Revenues | Gas Tax Revenues | RICAP Funds Expenditures | General Revenue Revenues | Gas Tax Revenues | RICAP Funds Expenditures |
| Gas Tax | \$24.6 | - | (\$12.4) | \$12.4 | - | (\$12.1) | \$12.1 |
| Sales Tax | - | (25.0) | - | - | (34.7) | - | - |
| Litter Permits | - | (0.8) | - | - | (0.8) | - | - |
| Total | \$24.6 | (\$25.8) | (\$12.4) | \$12.4 | (\$35.5) | (\$12.1) | \$12.1 |

\$ in millions

* This component of the gas tax initiative is authorized within Article 1 of the FY2023 Supplemental, not Article 4. According to the Office of Management and Budget, these expenditures are intended to hold the State's Highway Improvement Program harmless. The FY2023 expenditure occurs as a transfer to the Rhode Island Capital Plan (RICAP) fund in the Department of Administration's budget. The FY2024 and FY2025 RICAP expenditures occur within the Department of Transportation's budgets.

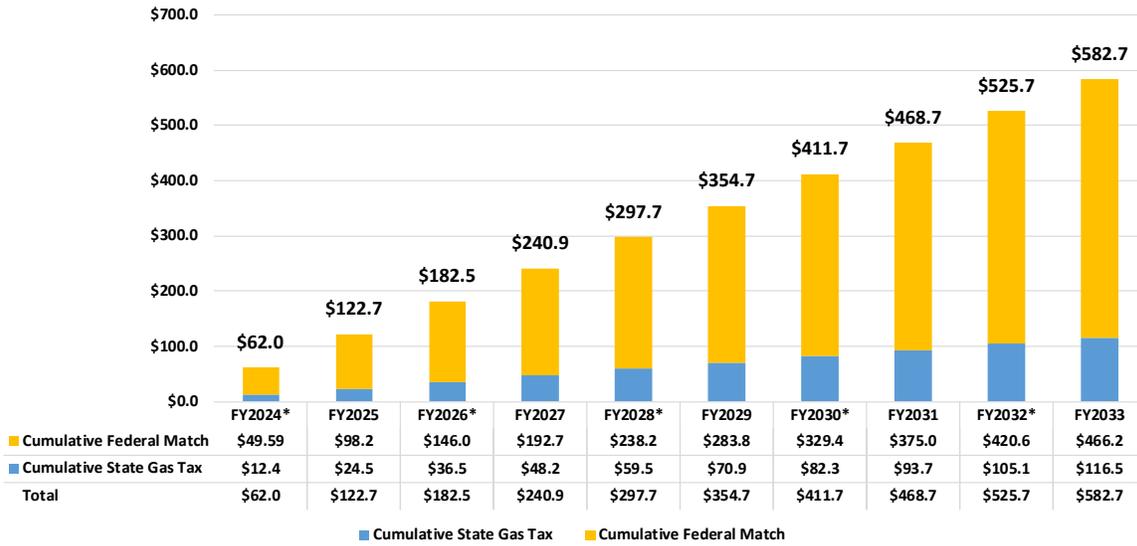
ANALYSIS AND BACKGROUND

Postponement of the Inflation Adjustment to the Motor Fuel Tax

The article eliminates the inflationary 3.0 cent per gallon increase to the motor fuel tax that is scheduled to occur at the beginning of FY2024. The current rate of 34.5 cents will remain in effect through the end of FY2025 and the Consumer Price Index for all Urban Consumers (CPI-U) adjustment will return on July 1, 2025 (the beginning of FY2026). The initiative is projected to create a \$24.5 million revenue loss through FY2025 and a \$59.5 million loss through FY2028. Additionally, in the FY2023 Governor's Revised Budget, the Governor recommends \$24.6 million of surplus general revenue to be deposited into the Rhode Island Capital Plan Fund in FY2023, in order to hold harmless the State's highway improvement program through FY2025.

Fiscal Impact: The recommended pause to the CPI-U adjustment is estimated to create a cumulative \$116.5 million loss through FY2033. Furthermore, the State uses gas tax revenue as a match in order to procure additional federal funds for capital projects, often at a rate of 20.0 percent state funds to 80.0 percent federal funds. The table below displays the estimated revenue loss for each fiscal year.

Total Revenue Loss If Matched With Federal Funds



\$ in millions

Source: Office of Revenue Analysis November 2022 Estimate

*Indicates a year with a required CPI Adjustment

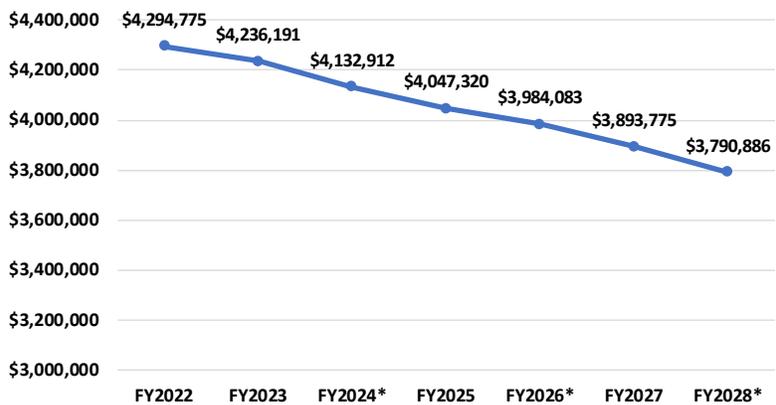
Revenue is held constant at \$11.4 million in FY2028-FY2033

The revenue loss was calculated by multiplying each year’s per penny yield by 3.0, which represents the 3.0 cent increase the Governor recommends foregoing. For forecasting purposes, gas tax revenue was held constant at \$11.4 million for FY2028-FY2033.

Background: Rhode Island’s current Motor Fuel Tax (Gas Tax) is \$0.345 for each gallon purchased. The tax consists of \$0.34 per gallon of state motor fuel tax and \$0.005 per gallon for the environmental protection regulatory fee.

The per penny yield is an estimate of the revenue that each penny of the motor fuel tax will generate. The Office of Revenue Analysis (ORA) projects that the per penny yield will annually decline. To partially ensure the tax reflects inflation, every two years the Consumer Price Index for all Urban Consumers (CPI-U) is applied to the State’s statutory formula. Projections from ORA in November 2022, indicate that the gas tax is expected to be raised \$0.03/gallon in FY2024 and remain salient until the start of FY2028. The graph displays the projected per penny yield through FY2028.

Per Penny Yield



Source: Office of Revenue Analysis November 2022 Estimate

* Indicates a year with a required CPI-U adjustment

Surrounding States: Both Connecticut and Massachusetts have a gas tax less than Rhode Island's, yet all three states have similar prices at the pump. Connecticut paused their gas tax from April 1, 2022, through December 31, 2022, and will reinstate the tax in \$0.05 increments until the full amount of \$0.25 is reached in May, 2023. Massachusetts currently has a gas tax of \$0.24/gallon.

| State | Gas Tax | \$/Gallon |
|-------|---------|-----------|
| RI | \$0.34 | \$3.42 |
| MA | 0.24 | 3.43 |
| CT* | 0.10 | 3.35 |

Consumer Impact: OMB estimates that the initiative will save the average household \$23.00 per year or \$46.00 through FY2025.

Source: <https://gasprices.aaa.com/>
Accessed February 3, 2023

A study conducted by the American Road & Transportation Builders Association titled *How State Motor Fuel Tax Increases Affect the Retail Price of Gasoline: An Economic Analysis of Rate Changes and Daily Gasoline Prices, 2013-2018*, examines the extent to which consumers benefit from changes to state motor fuel tax changes. The study concludes that "On average, one-third of an increase- or decrease- in state gasoline tax rates is passed through to consumers in the retail price on the day the change takes effect, with no significant impact after that time."¹ Based on the study, consumer impacts could be less than \$8.00 per year or as much as \$23.00 per household.

Sales Tax Reduction

Section 2 of Article 4 reduces the State's sales and use tax rate from 7.00 percent to 6.85 percent starting on October 1, 2023.

Fiscal Impact: Historically, sales and use tax collections represent the second largest source of revenue for Rhode Island, trailing only personal income tax, and just ahead of lottery receipts. Collections averaged \$1,071.2 million over the ten-year period from 2012 and 2022. The November 2022 consensus revenue estimates for the FY2023 and FY2024 sales and use tax collections are \$1,575.0 million and \$1,580.0 million, respectively. These estimates also represent 37.0 and 31.0 percent of total general revenue for each respective fiscal year.

The Office of Revenue Analysis (ORA) used these estimates and the Office of Management and Budget's (OMB) most recent five-year forecast to calculate the fiscal impact of the changes in Article 4. ORA divided each fiscal year's estimate by the current 7.00 percent rate to get an estimate of total taxable sales for each fiscal year. These sales are then multiplied by the proposed rate of 6.85 percent to establish a revised revenue collection figure. When these amounts are subtracted from the original base revenue estimates the full-year revenue losses are \$33.9 million for FY2024 and \$34.7 million in FY2025. ORA then adjusts the FY2024 to \$25.0 million to account for the October 1, 2023, start date, reflecting the 26.3 percent average proportion of revenue that August through October collections represent.

The table below at right is provided for demonstration purposes and shows the amount of revenue lost and in-state household savings

| Sales Tax Rate | Revenue Loss (\$ millions) | Avg. In-State Household Savings |
|----------------|----------------------------|---------------------------------|
| 6.9% | (\$22.6) | \$24 |
| 6.8% | (45.1) | 48 |
| 6.7% | (67.7) | 72 |
| 6.6% | (90.3) | 95 |
| 6.5% | (112.9) | 119 |
| 6.4% | (135.4) | 143 |
| 6.3% | (158.0) | 167 |
| 6.2% | (180.6) | 191 |
| 6.1% | (203.1) | 215 |
| 6.0% | (225.7) | 239 |
| 5.9% | (248.3) | 263 |
| 5.8% | (270.9) | 286 |
| 5.7% | (293.4) | 310 |
| 5.6% | (316.0) | 334 |
| 5.5% | (338.6) | 358 |
| 5.4% | (361.1) | 382 |
| 5.3% | (383.7) | 406 |
| 5.2% | (406.3) | 430 |
| 5.1% | (428.9) | 454 |
| 5.0% | (451.4) | 477 |

Note: Data was calculated using the November 2022 sales and use tax estimate for FY2024 and a full year of the rate in effect.

¹ American Road & Transportation Builders Association's Transportation Investment Advocacy Center. (2020, June). *Increases affect the retail price of gasoline*. Retrieved February 1, 2023, from https://transportationinvestment.org/wp-content/uploads/2020/06/TIAC_June2020_Report.pdf

associated with each marginal 0.1 percentage point decrease from the current rate of 7.0 percent down to 5.0 percent.

Consumer Impact: The Governor’s proposed sales tax reduction is estimated to save households an average of \$39 annually. ORA’s sales tax model considers both in-state and out-of-state consumers and business spending when estimating taxpayer savings. The current modeling has business activity comprising 49.7 percent of taxable activity, in-state consumer purchases comprising 47.5 percent and out-of-state consumers purchases at 2.8 percent. The following table summarizes the savings related to Article 4’s sales tax changes:

| Article 4 - Consumer Savings | | |
|-------------------------------------|-----------------|------------------|
| | FY2024 | Full Year |
| Total Savings | \$25.00 million | \$34.70 million |
| Business Savings | \$12.41 million | \$17.27 million |
| In-State Consumer | \$12.00 million | \$16.50 million |
| Out-of-State Consumer | \$0.70 million | \$1.00 million |
| Household Savings | \$12.56 million | \$17.48 million |
| Per Household Savings (in-state) | \$26 | \$37 |

Source: Office of Management and Budget

The point of purchase savings under the proposed 0.15 percentage point tax reduction as compared to the current rate is shown below. For each \$666.67 in spending, a consumer would save \$1.00 in sales tax.

| Purchase Amount | Sales Tax | | Taxpayer Savings |
|------------------------|------------------|--------------|-------------------------|
| | 7.00% | 6.85% | |
| \$50 | \$3.50 | \$3.43 | \$0.075 |
| \$100 | 7.00 | 6.85 | 0.150 |
| \$150 | 10.50 | 10.28 | 0.225 |
| \$200 | 14.00 | 13.70 | 0.300 |
| \$250 | 17.50 | 17.13 | 0.375 |
| \$300 | 21.00 | 20.55 | 0.450 |
| \$350 | 24.50 | 23.98 | 0.525 |
| \$400 | 28.00 | 27.40 | 0.600 |
| \$450 | 31.50 | 30.83 | 0.675 |
| \$500 | 35.00 | 34.25 | 0.750 |
| \$550 | 38.50 | 37.68 | 0.825 |
| \$600 | 42.00 | 41.10 | 0.900 |
| \$650 | 45.50 | 44.53 | 0.975 |
| \$700 | 49.00 | 47.95 | 1.050 |

Comparative Sales Tax Information: Comparing sales and use taxes across states can be done in various ways. First, there are five states that do not have statewide sales taxes: Alaska, Delaware, Montana, New Hampshire, and Oregon. Of these, Alaska allows localities to charge local sales taxes. Among the remaining 45 states, Rhode Island has the second highest state-level sales tax rate at 7.0 percent, with only California’s 7.25 percent rate higher. Excluding New Hampshire, the lowest sales tax rate in New England is Maine’s 5.5 percent. The border states of Massachusetts and Connecticut impose a 6.25 percent and 6.35 percent rate, respectively.

The state sales tax rate, however, is only one dimension of assessing a jurisdiction's sales tax burden. Thirty-eight states also permit local sales taxes (although no New England state does). When considering the combined state and local sales tax burden, Rhode Island drops to the 24th highest. Moreover, the composition of the sales tax base is important. What states permit to be taxed and at what rate varies significantly across the country. Some states for instance exempt groceries and clothing, while others tax them at limited rates. When accounting for the breadth of the sales tax base, Rhode Island drops even further to 36th highest.

The following table shows 2022 comparative data for New England and the U.S. from the Tax Foundation.

| State | State | | State and Local Combined | | | | Sales Tax Base | | | | |
|---------------|----------|----------|--------------------------|----------|-----------|---------------|----------------|-------------------------|----------|---------|----------|
| | Rate | U.S Rank | Per Capita Collections | U.S Rank | Avg. Rate | Combined Rate | U.S Rank | Per Capita Collections* | U.S Rank | Base | U.S Rank |
| Rhode Island | 7.00% | 2 | \$1,055 | 25 | - | 7.00% | 24 | \$1,097 | 35 | 26% | 36 |
| Massachusetts | 6.25% | 13 | 970 | 27 | - | 6.25% | 35 | 992 | 37 | 20% | 45 |
| Connecticut | 6.35% | 12 | 1,271 | 11 | - | 6.35% | 33 | 1,287 | 19 | 26% | 35 |
| New Hampshire | - | 46 | - | - | - | - | 47 | - | - | - | - |
| Vermont | 6.00% | 17 | 671 | 40 | 0.24% | 6.24% | 36 | 687 | 45 | 23% | 42 |
| Maine | 5.50% | 29 | 1,223 | 15 | - | 5.50% | 42 | 1,200 | 25 | 41% | 9 |
| Lowest | 2.90%/CO | 45 | \$575/GA | 45 | - | 1.76%/AK | 46 | \$359/AK | 46 | 20%/MA | 45 |
| Highest | 7.25%/CA | 1 | \$2,541/HI | 1 | - | 9.55%/LA | 1 | \$2,888/HI | 1 | 111%/HI | 1 |
| US Average | - | - | 1,031 | - | - | - | - | 1,322 | - | - | - |

Source: Tax Foundation 2022 data

*2019 data

Article 4 Changes: Section 2 of Article 4 reduces rate of the State's sales and use tax by amends RIGL 44-18. Specifically, the article contains the following amendments:

- **Sales Tax Imposed (RIGL 44-18-18):** Article 4 adds language setting the sales tax rate at 6.85 percent starting on October 1, 2023.
- **Collection of Sales Tax by Retailer (RIGL 44-18-19):** The article also adjusts the delineated sales tax amounts a retailer must collect from consumers starting on October 1, 2023, according to the following table:

| Tax | Sales Amount | |
|----------------------|------------------|------------------|
| | Current Law | Article 4 |
| No Tax | \$0.01 to \$0.07 | \$0.01 to \$0.07 |
| \$0.01 | 0.08 to 0.21 | 0.08 to 0.21 |
| 0.02 | 0.22 to 0.35 | 0.22 to 0.36 |
| 0.03 | 0.36 to 0.49 | 0.37 to 0.51 |
| 0.04 | 0.50 to 0.64 | 0.52 to 0.65 |
| 0.05 | 0.65 to 0.78 | 0.66 to 0.80 |
| 0.06 | 0.79 to 0.92 | 0.81 to 0.94 |
| 0.07 | 0.93 to 1.07 | 0.95 to 1.09 |
| 7.0% of sales price | \$1.08 and above | N/A |
| 6.85% of sales price | N/A | \$1.09 and above |

- **Use Tax Imposed (RIGL 44-18-20):** The article repeals the 7.0 percent use tax rate, and replaces it with a 6.85 rate starting October 1, 2023.

Sales and Use Tax Background: Rhode Island levies a sales and use tax equivalent to 7.0 percent of the retail sales price of certain goods and services. The sales tax is charged by retailers at the point of purchase, and retailers are required to remit sales tax receipts the month after the sales were made. Sellers are also required to carry a valid sales tax permit that is issued by the Division of Taxation.

In addition to the sales tax, the State also has a 7.0 percent use tax that applies to goods purchased outside of the State, including remote sales, but stored, used or consumed in Rhode Island. Contrary to sales tax collections, the user or purchaser is responsible for filing use taxes in Rhode Island. In essence, any purchase that would be subject to the sales tax had the purchase been made within the State, is subject to the use tax.

- **Tax Rate History:** Historically, proposals to change the State’s sales tax rate were tied to the establishment of a State personal income tax. However, when the latter occurred in 1971, the 6.0 percent rate at the time remained the same. The State sales and use tax rate was last amended in 1990, when it was increased from 6.0 percent to the 7.0 percent it is today under current law. The increase was intended to be a temporary response to recessionary pressure in the Rhode Island economy at that time. The amendment included a provision that the rate be lowered to 6.5 percent on July 1, 1991, and then 6.0 percent on July 1, 1992. However, these provisions were repealed the following year in response to a financial crisis involving the failure of the Rhode Island Share and Deposit Indemnity Corporation (RISDIC). The State took on a \$290.0 million liability to pay back RISDIC depositors and used revenue from the higher sales tax rate to help pay for it. The rate has remained the same since.
- **Tax Base History:** The sales tax base refers the total mix of goods and services that are subject to the sales and use tax. Generally, in Rhode Island, the sales tax is applicable to most tangible personal property that is not to be resold and some services. According to a 2021 Urban Institute/Brookings analysis, Rhode Island’s sales tax base includes 95.0 percent of all durable goods, such as vehicles, furnishings, and appliances; 20.0 percent of non-durable goods like paper products; 20.0 percent of services such as pet care and security services; and 28.0 percent of overall household spending.

The General Assembly has specifically limited the sales base over time by enacting 89 different exemptions. These exemptions vary from very specific items such as feminine hygiene products to large categories of items such as food and clothing. The total foregone revenue from these exemptions was \$1,432.8 million in FY2019.

Recent initiatives to expand the sales tax base include the addition of digital downloads, including video, audio, and books in 2019. In 2011, then Governor Chafee introduced a proposal that would have greatly expanded base, by subjecting previously exempt goods and services to a lower 1.0 percent sales tax rate. In 2019 the General Assembly enacted significant changes to who is required to collect and remit sales taxes and the mechanism for how this is to be done. The changes were directed at out-of-state, or remote, sellers selling goods and services into Rhode Island using various methods and digital platforms. Historically a seller was obligated to charge sales tax only if physically located in state. Remote sellers using platforms such as Amazon could avoid charging sales tax because they lacked this “nexus”. Increasing internet sales over the past 20 years led to significant erosion of sales tax bases. A US Supreme Court decision in 2018 eliminated the need nexus and states, including Rhode Island put in place new laws requiring remote sellers to collect and remit sales taxes.

Rhode Island is also a participant in the Streamlined Sales and Use Tax Agreement (Agreement). The agreement is the result of a cooperative effort aimed at simplifying and providing uniformity to sales and use tax collections in various jurisdictions. The Agreement reduces administrative costs for retailers conducting business in multiple taxing jurisdictions, and encourages “remote sellers” to apply sales taxes on purchases.

Repeal of Litter Control Permits

Article 4 repeals various sections of the Taxation of Beverage Containers, Hard-to-Dispose Material, and Litter Control Participation Permittee Act pertaining to the litter control permit, including applicable fees and penalties.

Fiscal Impact: The OMB indicates that the repeal of the litter control permit requirements will result in an \$815,564 reduction in annual revenue, beginning in FY2024 and based on effective upon passage date. As noted above the Office of Waste Management’s FY2024 recommended appropriation is \$473,634.

Background: Nearly 40 years ago the General Assembly established a complex set of programs designed to reduce litter and encourage recycling in Rhode Island. The intent of the Taxation of Beverage Containers, Hard-to-Dispose Material, and Litter Control Participation Permittee Act (RIGL 44-44) of 1984 was to establish litter control and recycling programs and to provide dedicated funding for litter reduction and cleanup, recycling, and processing of hard-to-dispose material programs administered by the Department of Environmental Management (DEM). The funding mechanism and procedures authorized by the act include:

- **Tax Provisions:** The act established an \$0.04 per case excise tax on beverage wholesalers and a tiered hard-to-dispose of material tax that is dependent upon the type of material. In 2019, the General Assembly doubled the per case excise tax to \$0.08, expanded the types of beverages subjected to the tax, and increased the hard-to-dispose of materials tax rates.
- **Permit Provisions:** The act also established a “litter control participation permit”, also referred to as the litter control tax.
 - **Permittee and Qualifying Activity:** Under current law, every person selling or offering for retail sale food or beverages for immediate consumption and/or packaged for sale on a takeout or to go basis regardless of whether or not the items are subsequently actually eaten on or off the vendor’s premises (statute defines this as “qualifying activity”) must annually apply for a litter control participation permit for each place of business.
 - **Permit Class and Fees:** The permit is issued by the Division of Taxation and the applicant must pay a fee for it according to the following schedule.

| For an applicant with prior year gross receipts of ... | Permit Class | Fee |
|---|---------------------|---------------------------------------|
| \$0 to less than \$50,000 | A | \$25 |
| \$50,000 to less than \$100,000 | B | \$35 |
| \$100,000 to less than \$400,000 | C | \$75 |
| \$400,000 to less than \$1,000,000 | D | \$100 |
| \$1,000,000 or more* | E | \$125 Per Million or fraction thereof |
| Vending Machine Sales | V | \$25 per Vending Machine |

* The fee for the Class E Permit is capped at \$1,000.

The permit must be renewable every year, with application and payment due by August 1st each year, renewing the permit for the Calendar year beginning the following January 1st.

- **Penalties:** Anyone engaging in the qualifying activities without the proper permit is guilty of a misdemeanor and must pay a fine of no more than \$1,000, and/or be imprisoned for not more than a year.
- **Revenue:** All money received from fees and taxes pursuant to the act are deposited as general revenue.
- **Litter Reduction Program Provisions:** The Taxation of Beverage Containers, Hard-to-Dispose Material, and Litter Control Participation Permittee Act stated purpose is to “accomplish litter control and establish community recycling programs throughout the state by authorizing DEM to conduct a permanent and continuous program to remove litter, recover and recycle waste materials related to litter, encourage private recycling, and increase awareness of the need for recycling and litter control (RIGL 37-15). The act formally prohibits littering, establishes penalties, outlines enforcement, and outlines DEM’s role in developing and administering programs. The statute indicates that DEM must allocate and distribute money from the “litter control appropriation” through a grant/transfer programs for litter cleanup, expanding recycling centers, enforcement, provision of litter receptacles and other cleanup materials, organizing educational campaigns, and tracking litter data.

Analyst Note: *The provisions outlined above appear to indicate that litter control has had dedicated funding (called the litter control appropriation in RIGL 37-15) sourced by collections from the tax and permit fees as provided for in RIGL 44-44). However, the provisions also require that these same funds be deposited in general revenue. The Governor’s recommends \$473,634 in FY2024 DEM’s Office of Waste Management, which oversees litter programming. The Office of Management and Budget estimates litter permits will generate \$815,604 in FY2024*

Article 4 Changes: Article 4 repeals those sections of the Taxation of Beverage Containers, Hard-to-Dispose Material, and Litter Control Participation Permittee Act pertaining to the litter control permit. Specifically, the article:

- Repeals the definitions for Class A, B, C, D, and E permits; gross receipts (for purposes under the act); prior calendar year, and qualifying activities.
- Repeals all statutory references to “litter control participation permittee” and “permit application”.
- Repeals all permit provisions as described above, including fee amounts, penalties, and procedural provisions.

Analyst Note: *Although the litter permit component of the act has been repealed, there is no decrease in the statutory responsibilities of DEM. The Governor recommends \$100,000 in general revenue expenditures within the FY2024 DEM budget for a new “Litter Free Rhody” initiative for the purpose of engaging the public and encouraging community involvement in the removal of trash and litter from State beaches, parks, and management areas.*

Article 5: Relating to Energy and the Environment

This article modifies laws governing the paint recycling program, the mattress recycling program, and state energy efficiency and renewable energy fund programs.

FISCAL IMPACT

Section 4 of the article, duties of Utilities and Carriers, transfers \$4.5 million in restricted receipts from the Demand-side Management Gas and Electric funds to the Office of Energy Resources (OER) for the Executive Climate Change Council. The remaining sections have no direct fiscal impact on the State.

ANALYSIS AND BACKGROUND

Rhode Island Paint Recycling Program

The article would require the Department of Environmental Management (DEM) to solicit competitive bids for an organization to implement and manage the paint recycling program every five years. Currently, a third-party organization that represents paint manufacturers, known as PaintCare, is responsible for operating the paint recycling program, and can set recycling fees to fund operating expenses and a cash reserve. The article provides that should there be no respondents to the request for proposal (RFP) or if DEM determines that none of the responses are sufficient to manage the program, the Rhode Island Resource Recovery Corporation (RIRRC) will serve as the implementing organization until another solicitation is required. An RFP must be issued by December 31, 2023.

The program was established in June 2014. Based on the FY2021 annual report, the program has 28 drop-off sites around the State, including retailers and transfer stations, which collected 92,811 gallons of paint. The program collected \$959,460 in revenue from a fee on new paint sales. The fee is \$0.35 on pint and quart containers, \$0.75 on gallon containers, and \$1.60 on five-gallon containers. The expenses, including paint transportation and processing, communication, staffing, and administration, were \$1.1 million. The fiscal year ended with net assets of \$954,660. The total program cost per gallon collected was \$11.93.

Based on the FY2020 annual report, the program had 29 drop-off sites around the State, including retailers and transfer stations, which collected 69,069 gallons of paint. The program collected \$991,912 in revenue from a fee on new paint sales. The fee was \$0.35 on pint and quart containers, \$0.75 on gallon containers, and \$1.60 on five-gallon containers. The expenses, including paint transportation and processing, communication, staffing, and administration, were \$695,607. The fiscal year ended with net assets of \$1.1 million. The total program cost per gallon collected was \$10.06.

In the FY2023 Budget, the Governor recommended increasing DEM oversight over the program by making the size of the reserve fund and the administrative expenses associated with the program subject to DEM approval. In addition, the article would have authorized the creation of a reserve fund capped at 50.0 percent of total cost to administer the program during the previous program fiscal year. These recommendations were not included in the enacted budget.

Analyst Note: The recycling program was established as an extended producer responsibility program intended to require producers to bear significant responsibility for the environmental impacts of their products particularly in the final stage of the product's life, after consumption. The program was not intended as a profit generator. It is unclear how shifting the program to a competitive bid process with RIRRC as a safety net will impact the program.

Mattress Stewardship Plan

The article requires the RIRRC to solicit competitive bids for an organization to administer the mattress recycling program every five years and to administer the program should none of the respondents be sufficient. The program is currently administered by the Mattress Recycling Council (MRC), a nonprofit organization comprised of mattress producers. In addition to the Bye Bye Mattress program in Rhode

Island, the Council administers statewide mattress recycling programs in California and Connecticut. An RFP must be issued by December 31, 2023.

The current mattress stewardship fee that is added to the price of each mattress sold in Rhode Island is \$16.00, compared to \$11.75 in Connecticut, and \$10.50 in California. The fee is used to provide consumer education and outreach, collection, and processing of recyclable mattresses. A mattress that is not considered to be recyclable does not qualify for the program and would not qualify for free disposal. According to the MRC's 2021 Annual Report, 104,607 mattresses were collected and 1,221 tons of material was diverted from the landfill. Access to the program was provided in 37 of 39 municipalities, and extended service to 203 entities including retailers, lodging establishments, healthcare facilities, educational facilities, and bulky waste haulers.

The program for the responsible recycling, reuse, and disposal of mattresses was established in 2013 to promote the development of a comprehensive strategy for the discard of mattresses. Article 3 of the FY2023 Budget as Enacted shifted determination of the reasonableness of a proposed uniform mattress stewardship fee from an independent auditor to the Rhode Island Resource Recovery Corporation.

Analyst Note: The recycling program was established as an extended producer responsibility program intended to require producers to bear significant responsibility for the environmental impacts of their products particularly in the final stage of the product's life, after consumption. The program was not intended as a profit generator. It is unclear how shifting the program to a competitive bid process with RIRRC as a safety net will impact the program.

Energy Efficiency Programs

This article amends several sections of RIGL 39-2-1.2 regarding the State's energy efficiency fund programs:

- Effective January 1, 2023, this article eliminates the performance-based or shareholder incentives provided to electric and gas distribution companies to administer and implement energy efficiency programs.

Analyst Note: This article requires the annual transfer of \$4.5 million in restricted receipts from the Demand-side Management Gas and Electric funds to the Officer of Energy Resources (OER). This transfer will require approval from the Public Utilities Commission each year, and may increase costs to electric and gas utility ratepayers.

- **Utility Charge for the Energy Efficiency and Renewable Energy Fund:** This article extends the electric utility company's per kilowatt hour charge for the State's Energy Efficiency and Renewable Energy fund programs from CY2028 to CY2030¹ and extends the gas distribution company charge per dekatherm delivered² to fund demand-side management programs from CY2028 to CY2030. Under current law the surcharge would expire in 2028.
- **Energy Efficiency Resources Management Council and Office of Energy Resources:** The article requires the Public Utilities Commission to allocate from the administrative funding amount, which is three percent of the gas and electric demand side-management funds, as follows: not more than 40.0 percent to the Energy Efficiency Resources Management Council, and 60.0 percent to the Office of Energy Resources for administrative costs. The article provides the Office of Energy Resources with exclusive authority to direct the use of its funds.
- **Rhode Island Infrastructure Bank:** This article expands the use of the annual \$5.0 million transfer from the gas and electric demand-side management funds to the Rhode Island Infrastructure Bank (RIIB) to

¹ For CY2023, the per kilowatt charge for the Energy Efficiency Program is \$0.00137 per kWh from January through March 2023, and \$0.00956 per kWh from April through December 2023. These charges include the current 0.3 mills (\$0.0003) per kWh hour for the Renewable Energy fund program.

² For CY2023, the residential per dekatherm charge for the gas demand-side management program is \$1.136; the Commercial/Industrial per dekatherm charge is \$0.6200.

include the financing of projects involving clean transportation, clean heating, and energy storage, in addition to funding projects involving energy efficiency, renewable energy, or demand-side management. The article maintains the requirement that RIIB annually report to the Public Utilities Commission on the how funds were used by RIIB.

- **Executive Climate Change Council:** This article requires an annual transfer of \$4.5 million in restricted receipts from the gas and electric demand-side management gas and electric funds, beginning January 1, 2024, to the Office of Energy Resources (OER) for the Executive Climate Change Council to use for climate change initiatives.

The demand-side management gas and electric funds (Fund) is generated from a surcharge approved by the Public Utilities Commission and assessed on both gas and electric customers. The Fund finances several programs that help businesses and homes achieve greater energy efficiency. The Fund serves both gas and electric customers and is currently administered by RI Energy (formerly National Grid). The annual energy efficiency programs, budgets, and incentives are designed in the summer/fall each year by RI Energy and filed with the Public Utilities Commission for approval. The Office of Energy Resources, Division of Public Utilities and Carriers, and the Energy Efficiency Resource Management Council (EERMC) and other stakeholders participate in the docketed proceeding.

The Executive Climate Change Council will have exclusive authority to allocate these funds for projects including energy efficiency, renewable energy, clean transportation, clean heating, energy storage, demand-side management, and other climate change projects that support the reduction of greenhouse gases and investments that support the 2021 Act on Climate, including:

- Developing an updated Climate Strategy by December 31, 2025
- Publishing and maintaining public metrics in an online dashboard that tracks emission reductions, sources of energy consumed by the state, and related climate metrics
- Funding to purchase materials or contract consultants, expert witnesses, and outreach and marketing campaign efforts
- Supporting the work of the Climate Justice workgroup
- Supporting state programs aimed at decarbonization and resilience
- Supporting the continued work of the Science and Technical Advisory Board

The article requires the Executive Climate Change Council to provide an annual report to the Governor and General Assembly on how the funds were expended to meet the objectives set forth in the 2021 Act on Climate.

The Office of Energy Resources is authorized, in coordination with the Energy Efficiency Resources Management Council, to enter into third party contracts to administer and implement climate change initiatives authorized under RIGL 39-2-1.2. The article does not prohibit an electric or gas distribution company from submitting a proposal to administer the State's energy efficiency programs. The article also authorizes a restricted receipt account within the Department of Administration for the Executive Climate Change Coordinating Council Projects.

- **Administration of Demand-Side Management Programs:** Requires the Office of Energy Resources (OER) in coordination with the Energy Efficiency and Resource Management Council (EERMC), and in consultation with the Division of Public Utilities and the Public Utilities Commission (PUC), to issue a request for proposal for the cost-effective administration and implementation of the gas and electric energy efficiency program no later than June 30, 2024. The draft request for proposal shall be reviewed

publicly through a technical session at the PUC but shall not require PUC approval. The electric and/or gas company is not prohibited from submitting a bid.

If after the evaluation of bids, the OER, in consultation with the EERMC, determines that the use of a third-party administrator is likely to achieve net benefits, OER will file its recommendation to the PUC. If the PUC determines that the recommended third-party administrator is in the interest of ratepayers, the PUC will provide for full cost recovery for the third-party administrator pursuant to terms of the approved contract which may include performance metrics. If the PUC does not recommend a third-party administrator, the gas and electric utility shall continue to administer the state's energy efficiency programs.

After January 1, 2025, OER may issue additional requests for proposals for the administration and implementation of the state's energy efficiency programs.

Article 6: Relating to Small Business

Article 6 provides for several exemptions and credits that impact businesses. Specifically, the article:

- Exempts second hand dealers engaged in consignment, thrift, and antique selling and purchasing from licensing and public hearing requirements laid out in the Second-Hand Dealers Act.
- Reduces the minimum business corporation tax from \$400 to \$375 for tax years beginning on or after January 1, 2024.
- Exempts the trade-in value of a truck with a gross weight of 14,000 lbs. or less from the State sales and use tax.
- Provides for a new nonrefundable income tax credit equal to 15.0 percent of the value of Rhode Island-produced food donated by food producers to qualified food banks in the State.

FISCAL IMPACT:

| Article 6 Initiative | FY2023 | FY2024 | FY2025 |
|--|------------------|----------------------|----------------------|
| Sales Tax Exemption for Trade-in Value of Trucks | - | (\$3,714,850) | (\$5,030,514) |
| Corporate Minimum Tax Reduction | - | (1,017,600) | (2,081,413) |
| Food Donation Tax Credit | (8,895) | (17,790) | (17,790) |
| Total | (\$8,895) | (\$4,750,240) | (\$7,129,717) |

BACKGROUND AND ANALYSIS

Second Hand Dealers Act

Article 6 includes a proposal that would limit the scope of the “Second Hand Dealers Act”.

Background: Current law allows municipalities to require a second-hand dealers license for businesses involved in resale activities. The license is obtained through application with a fee that is no more than \$100. New businesses interested in obtaining a second-hand dealers license are required to hold a public hearing prior to licensure approval. Once approved, businesses covered under this license must reapply annually to continue in the resale of goods.

Article 6 Change: The proposed change would exempt businesses engaged in the retail sale of second-hand consignment goods, resale goods, thrift goods, and antiques from the Second-Hand Dealers Act. The change does not remove the option to impose this license for junkyards and scrap-yards. Second hand retailers who are exempt from this license will need to go through regular business licensing procedures.

Fiscal Impact: The change may slightly impact municipal revenue as these fees were collected at the municipal level. There will be no fiscal impact at the State level.

Sales Tax Exemption for Trade-in Value of Trucks

Article 6 includes the Governor’s proposal to exempt the trade-in value of trucks from the State’s sales and use tax.

Background: Many states provide a sales tax exemption for the trade-in value of vehicles. To determine how much sales tax is owed when purchasing a vehicle, the state sales tax rate is simply applied to a vehicle’s purchase price. However, if an exemption exists for the value of the purchaser’s current vehicle that is “traded-in” to a licensed seller, then the sales tax rate is applied to the difference between the purchase price and the value of the trade-in.

This type of exemption is common among states for automobile sales. How trucks are treated, however, varies greatly from state to state. Rhode Island law provides a sales tax exemption for the trade-in value of automobiles and motorcycles, but not for pickup trucks.

Article 6 Changes: Section 3 of the article amends RIGL 44-18-30 to include a specific exemption for the trade-in value of a truck with a gross weight of 14,000 lbs. or less from the State’s 7.0 percent sales tax when purchasing motor vehicle. The article also clarifies that a “motor vehicle” means a private passenger automobile, a truck ($\leq 14,000$ lbs.), or a motorcycle.

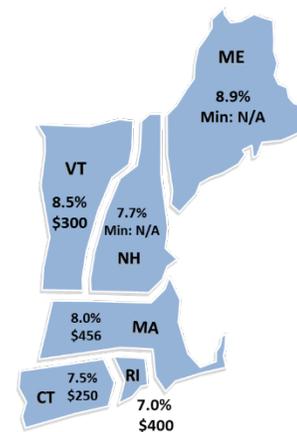
Fiscal Impact: Based on an October 1, 2023, start date, the Office of Revenue Analysis indicates that the FY2024 revenue loss from this exemption will be \$3.7 million, growing to \$5.0 million in FY2025, reflecting a full year’s implementation.

Corporate Minimum Tax Reduction

Article 6 includes the Governor’s proposal to reduce the minimum business corporation tax by \$25.

Background: In Rhode Island, corporations are required to remit taxes on 7.0 percent of net income or the \$400 minimum business corporation tax, whichever is greater. The November 2022 estimates for this tax are \$252.0 million and \$261.3 million in FY2023 and FY2024, respectively.

Top Tax Rate/Minimum Tax – Regional Comparison



| Business Class | TY2021 Min. | Filers |
|----------------|-------------|---------------|
| C-Corporation | | 7,159 |
| L.L.C. | | 20,356 |
| S-Corporation | | 26,272 |
| L.L.P. | | 540 |
| L.P. | | 3,509 |
| S.M.L.L.C. | | 11,700 |
| Undeclared | | 1,716 |
| Total | | 71,252 |

Source: Taxation, November 2022 REC

Rhode Island currently has the lowest corporate income tax rate in New England and the fourth highest minimum tax of those states that collect one. The General Assembly most recently reduced the minimum tax in 2016 (by \$50). According to the Division of Taxation, there were 71,252 taxpayers that paid the current \$400 minimum tax in tax year 2021 (the most recent audited data).

Article 6 Changes: Section 2 of Article 6 establishes a minimum business corporation tax of \$375 for tax years beginning on or after January 1, 2024. This is a \$25 reduction from the current law minimum of \$400. The Office of Management and Budget (OMB) estimates that this change will result in a \$1.0 million revenue loss in FY2024, growing to \$2.0 million in FY2025, reflecting a full year of implementation.

Food Donation Tax Credit

Article 6 provides a 15.0 percent tax credit food donated by food producers to qualified food banks.

Background: Under current Rhode Island tax law, food producers that donate products to food banks are not afforded a tax credit or deduction based on the action. An enhanced charitable deduction does exist at the federal level for businesses that donate food to qualified organizations who use it for qualified purposes (taxpayers seeking this deduction must itemize the donation on their tax filings). According to OMB, several states have enacted tax credits for food donations by certain types of businesses. This is summarized in the following table.

| Eligible Taxpayer | States |
|---------------------------|------------------------------------|
| Farms and/or Ranches | CA, CO, IA, MD, MO, NY, OR, VA, WV |
| Restaurants and Farms | AZ |
| Meat Packers and Butchers | SC |
| Any Business | PA |

Article 6 Changes: A Food Products Donation Tax Credit (FPDTC) is established in Section 5 of Article 6 which contains several provisions.

- **Intent:** Section 5 of the article indicates that the intent of FPDTC is to incentivize donations to in-state food banks.

- **Establishment, Eligibility, and Process Provisions:** Section 5 of the article also outlines and defines elements of the FPDTC.
 - Qualified donors are defined as Rhode Island-based food producing person who provides food products to Rhode Island food banks (the article explicitly prohibits cannabis-related products from the definition of food products). A food producing person is anyone responsible for or engaged in the business of and deriving income from:
 - Growing fruits, nuts, grains, or vegetables, or other food products; or
 - Raising beef, poultry, pork, fish, or other food products.
 - The items listed above must be raised or grown in Rhode Island.
 - Food products include those items above as well as any other edible products raised or grown in Rhode Island that are intended for and fit for human consumption. The article specifically excludes cannabis or cannabis products from this definition and the donation program.
 - Qualified donors are eligible for a non-refundable credit against either their business corporations or personal income tax, equal to 15.0 percent of the value of the donated food.
 - The credit cannot exceed \$5,000 for a taxable year or reduce a business corporation tax liability below the current minimum tax of \$400.
 - If the amount of the credit exceeds the taxpayer's tax year liability, then the amount of the credit above the liability may be carried forward and applied to applicable taxes over the next four years or, until the full amount of the credit is used.
 - Section 5 also clarifies how the credit may be accounted for by pass-through entities, including partnerships and LLC's.
 - A qualified donor is required under the program to provide a food bank the estimated value of the donated food products. Food banks, in turn, are required to provide donors with a statement indicating the type and quantity of food products, the relevant tax identification data of the donor, the relevant identification data of the food bank, and the estimated value of the donation.
 - Donation value is based on either a previous sale of the food product to a verified buyer or a fair market value as determined by the average weekly regional auction price or U.S. Department of Agriculture price.
 - Donors are required to attach income tax returns for any tax year in which the credit is being claimed. The credit may only be awarded after Taxation has verified compliance with the administrative elements of the credit.
- **Administrative and Statutory Construction Provisions:** The FPDTC is to be administered by the Division of Taxation (Taxation). Taxation would have the authority to adopt rules, regulations, and other guidance to implement the credit, including the development of any necessary forms. Section 4 of the article incorporates the FPDTC by reference into the appropriate section of general laws relating to credits against the State personal income tax.

Fiscal Impact: The FPDTC would take effect on January 1, 2023, making the fiscal impact retroactive. According to the Office of Revenue Analysis (ORA), the FPDTC proposal would result in an \$8,895 revenue loss in FY2023 based on a half year implementation, and a \$17,790 revenue loss going forward, reflecting a full year impact. The ORA derived this impact by using Oregon's total revenue impact and scaling it back to Rhode Island based on the number of farms in each state. Oregon has the same 15.0 percent tax credit but does not limit the amount of the credit.

Article 7: Related to Economic Development

This article expands or modifies various economic development incentives managed by the Commerce Corporation (CommerceRI) including:

- Reauthorizes the Executive Office of Commerce (EOC) incentive programs for an additional year.
- Raises the total program cap on the Rebuild RI Tax Credit and Sales Tax Exemption program (Rebuild RI).
- Expands the uses of Main Street Rhode Island Streetscape Improvement Program (Main Street RI) funding to include technical assistance and administrative costs.
- Expands the Stay Invested in Rhode Island Wavemaker Fellowship (Wavemaker) program to include teachers.
- Modifies the Innovation Initiative incentive program by increasing the maximum voucher awards from \$50,000 to \$75,000.

FISCAL IMPACT

There is no direct quantifiable impact in terms of expenditures or revenue related to the initiatives and amendments contained within Article 7. The Governor's recommended FY2024 Budget does, however, include additional expenditures that support the existing incentives that are modified by the article. These are summarized in the following table.

| Incentive | FY2024 v. FY2023 | |
|------------------------------|------------------|---------------|
| | FY2024 Governor | Enacted |
| Rebuild RI | \$26.4 | \$12.9 |
| First Wave Closing Fund | 20.0 | 20.0 |
| Wavemaker Fellowship | 4.0 | 0.8 |
| Small Business Assistance | 3.3 | 2.6 |
| Air Service Development Fund | 2.3 | - |
| I-195 Redevelopment Fund | 2.0 | 2.0 |
| Innovation Initiative | 2.0 | 1.0 |
| Main Streets Revitalization | 1.0 | (4.0) |
| P-tech | - | - |
| Total | \$60.9 | \$35.3 |

\$ in millions

ANALYSIS AND BACKGROUND

As noted above Article 7 modifies various economic development incentives. These modifications are explained in this section.

Reauthorization of Economic Development Incentive Programs

Background: The General Assembly enacted a suite of economic development incentives in its 2015 session. To ensure its prerogative of overseeing the effectiveness of these incentives, the General Assembly originally authorized them for only two years by establishing a sunset date of December 31, 2018. Since then several incentives have not been reauthorize, but the majority have been extended five times, most recently by the FY2023 Budget as Enacted. The remaining incentive programs are currently set to expire on December 31, 2023.

Article 7 Changes: Article 7 reauthorizes the following incentives through December 31, 2024.

- Stay Invested in RI Wavemaker Fellowship
- Rebuild RI
- Rhode Island Tax Increment Financing
- Tax Stabilization Incentive
- First Wave Closing Fund

Analyst Note: CommerceRI has oversubscribed the First Wave Closing Fund program cap. The Fund has received a net \$10.0 million in general revenue from the General Assembly since inception. As of December 2020, CommerceRI had awarded \$3.3 million in First Wave gap financing, leaving a balance of \$6.7 million. Under previous Executive Office of Commerce leadership, CommerceRI's board awarded an additional \$7.8 million on May 11, 2022, overdrawing the First Wave Closing Fund by \$1.1 million.

- I-195 Redevelopment Project Fund
- Small Business Assistance Fund
- Main Street Rhode Island Streetscape Improvement Fund
- Innovation Initiative
- High School, College, and Employer Partnerships (P-Tech)
- Air Service Development Fund
- Rhode Island Qualified Jobs Incentive

Rebuild RI Tax Credit Program Changes

Background: Rebuild RI uses both tax credit and sales tax exemption incentives to promote investment in real estate development for commercial and/or residential use across the State. When the Rebuild RI tax credit program was first established by the General Assembly in 2015, several program limits were instituted to prevent awarded credits from outpacing general revenues and to ensure program performance. These limits included a \$150.0 million cap on the total amount of credits permitted to be issued and an initial sunset date of December 31, 2018. The limits ensured that the General Assembly had an opportunity to evaluate the effectiveness of the program over time and, based on its analysis, either reauthorize or curtail the program. The issuance of sales tax exemptions however, was not originally capped.

Additional limits have since been placed on the program. In 2019, the General Assembly modified the total program cap by increasing it from \$150.0 million to \$210.0 million. However, the cap now applies to the combined total of tax credits and sales tax exemptions. The program also has a \$15.0 million per-project cap. The General Assembly also modified this cap as it related to the potential Fane Tower project in the I-195 Redevelopment District. In this instance, the project cap was raised to \$25.0 million, including credits and exemptions. The project also does not count against the overall program cap. The sunset date for Rebuild RI has been extended five times, most recently to December 31, 2023.

Commerce has awarded \$159.2 million in Rebuild RI tax credits and \$42.7 million in sales tax exemptions across 54 projects, for a combined total of \$201.9 million, or 96.1 percent of the current \$210.0 million program cap.

Article 7 Changes: Section 2 of Article 7 increases the program cap from \$210.0 million to \$225.0 million and extends the Rebuild RI sunset from December 31, 2023, to December 31, 2024.

Fiscal Impact: There are no direct revenue or expenditure impacts in FY2024 attributable to the changes being made to the Rebuild RI. The Governor recommends a \$26.4 million in general revenue appropriation for the incentive program in FY2024.

Analyst Note: The Budget documents indicate that the Governor includes an additional \$15.0 million in general revenue to “fully cover the obligations associated with the cap increase. The Governor’s budget includes a total of \$26.4 million for Rebuild in FY2024. Current out-year estimates for FY2025-FY2035 total \$78.4 million. November 2022 REC testimony indicates FY2024 obligations to be \$23.1 million.

Wavemaker Program

Background: Established in 2015, the Wavemaker program originally was 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. In 2022 the General Assembly expanded the eligible professions to include healthcare and mental health professionals. The program provides Wavemaker Fellows with refundable personal income tax credits that can be used to offset their annual student loan payments for up to 4 years. The amount of the tax credit depends upon the degree earned by the taxpayer, i.e. \$1,000 for an associate’s degree up to \$6,000 for a graduate or post-graduate degree. To offset the general revenue loss resulting from the use of the credits, the General Assembly established a Stay Invested in RI Wavemaker Fellowship Fund and limited the issuance of credits to the amount in the fund. As credits are used, the equivalent amount is transferred out of the program fund to the general fund.

Since its inception the General Assembly has appropriated \$11.6 million in general revenue to the fund and has served approximately 1,049 fellows.

Analyst Note: The Senate Fiscal Office has requested from CommerceRI the total amount of obligated Wavemaker Funds for each of the fellow cohorts going back to 2016. The 2018 and 2019 cohorts of Wavemaker Fellows were impacted by the federal CARES Act. Under the pandemic legislation, most federal student payments were paused. This has affected the timing and amounts of awards.

Article 7 Changes: Article 7 expands the Wavemaker program to include teachers. It does this by specifically amending certain provisions including:

- **Healthcare Fund Provisions:** In 2022 the General Assembly extended the program to healthcare and mental health professionals. As part of this legislative change a separate Stay Invested in RI Wavemaker Fellowship Fund was established to fund healthcare and mental health fellows. This fund is distinct from the original fund for STEM professionals. With the expansion of the program to teachers, the Governor recommends consolidating these funds instead of establishing a third fund. Article 7 makes the necessary statutory changes to effectuate the consolidation.
- **Teacher Provisions:** Article 7 extends the program to teachers by modifying the definition of the eligibility requirements, specifically by including teacher within the provision around what type of employment an applicant may have to be eligible. The article charges CommerceRI with developing a definition of teacher for purposes of the program through rules and regulation and in consultation with the Rhode Island Department of Elementary and Secondary Education.
- **Sunset Provisions:** The article also reauthorizes the Wavemaker program for another year by extending the sunset date from December 31, 2023, to December 31, 2024.

Fiscal Impact: The Governor recommends \$4.0 million in general revenue in FY2024 for the Stay Invested in RI Wavemaker Fellowship Fund, \$800,000 more than the FY2023 enacted level. This is to support an additional cohort of 100 fellows in FY2024, presumably targeting teacher applicants.

Main Street Rhode Island Streetscape Improvement Program Expansion

Background: Main Street RI program is a fund administered by CommerceRI that is used to provide loans, matching grants, and other forms of financing to municipalities and other organizations to upgrade streetscapes in local business districts. Projects include refurbishing facades, improved lighting, and signage. Recipients are required to provide a 30.0 percent match. Since its inception \$8.0 million has been

appropriated to the program of which \$2.8 million has been awarded (the General Assembly appropriated \$5.0 million for FY2023). The program has supported 24 projects across 16 municipalities.

Article 7 Changes: Section 8 of Article 7 adds technical assistance and administrative costs to the list of uses for program funds. The section also authorizes Commerce RI to establish by rules and regulations the maximum amount from the fund that may be used for technical assistance and administration. Lastly, this section reauthorizes the program for another year by extending the sunset provision from December 31, 2023, to December 31, 2024.

Fiscal Impact: The Governor recommends keeping the FY2023 Supplemental Budget amount for this program at the enacted level of \$5.0 million and adds another \$1.0 million for FY2024.

Innovation Initiative – Increase in Maximum Awards

Background: The Innovation Initiative program provides financial assistance to small businesses (under 500 employees) and manufacturers for research and development technical assistance. Awards can range from \$5,000 to \$50,000. Vouchers may be used to pay for: research and technological development; product development; commercialization; market development; technology exploration; and improved business practices/strategies that grow business and create operational efficiencies.

A total of 310 companies have received approval from the Commerce Corporation for Innovation Vouchers totaling \$9.0 million.

Article 7 Changes: The article increases the maximum voucher amount from \$50,000 up to \$75,000.

Fiscal Impact: \$13.5 million has been appropriated since 2016 for this program. The Governor recommends \$1.0 million in FY2023, consistent with the enacted level, and \$2.0 million in FY2024.

Article 8: Relating to Education

This article increases the minimum minority business enterprise (MBE) participation rate required for school construction projects from 10.0 percent of the dollar value of the bid to 15.0 percent. In addition, the article increases the student success factor provided in the education funding formula from 40.0 percent of the core instruction per-pupil amount to 42.0 percent, establishes categorical aid for students experiencing homelessness, and creates a new Public School of Choice (PSOC) Transition fund.

FISCAL IMPACT

| Article 8 Fiscal Impact | |
|---|---------------|
| Student Success Factor Increase | \$9.9 |
| Homeless Student Distribution | 2.5 |
| Public School of Choice Supplemental Fund | 7.9 |
| Elimination of School Choice Density Aid | (0.5) |
| Total | \$19.8 |

\$ in millions

ANALYSIS AND BACKGROUND

The article makes several changes to the school construction program and the education aid formulas, as well as creates new aid categories.

Necessity of School Construction - Minority Business Enterprise Participation

This article increases the minimum minority business enterprise (MBE) participation rate required for school construction projects from 10.0 percent of the dollar value of the bid to 15.0 percent. Article 3 further amends RIGL 37-14.1-6, Minority Business Enterprise participation, to require the 15.0 percent be split evenly providing 7.5 percent for minority-owned businesses owned and controlled by a minority owner and 7.5 percent for minority businesses owned and controlled by a woman. These changes were recommended in the State of Rhode Island Disparity Study on the utilization of available minority- and women-owned businesses in state contracts.

Analyst Note: The law is unclear as to whether the penalties for non-compliance set forth in RIGL 37-14.1-8 apply to school construction projects. If the intent is to match the penalties that are in law for general state construction projects, this provision should be amended to clearly include the desired penalties.

Increase Student Success Factor

In addition, the article increases the student success factor (SSF) provided in the education funding formula from 40.0 percent of the core instruction per-pupil amount to 42.0 percent. The SSF was included in the funding formula calculation to adjust the core instruction amount to address the effects of poverty and other. The Office of Management and Budget (OMB) indicates that the Governor recommended adding 2.0 percentage points to provide additional funding for local education agencies (LEAs) with the greatest concentration of poverty. The aim of the change, coupled with the other funding formula adjustments, is to ensure that school districts with students already facing systemic educational disparities, such as students from low-income communities, students of color, differently-abled students, and multilingual learners, have the resources necessary to help address such disparities.

Categorical Aid to Support Students Experiencing Homelessness

In an effort to help districts support students experiencing homelessness, the article establishes a new categorical providing 25.0 percent of the core instruction per-pupil amount for each qualifying student, adjusted by the state share ratio for the district. Students could qualify for both the SSF and the Homeless

weights. Residency will be based on the last residence of the students and school districts will self-report the numbers based on the criteria set forth in the McKinney-Vento Act.

The McKinney-Vento Homeless Assistance Act defines “homeless children and youths” as those who lack a fixed, regular, and adequate nighttime residence, including:

- “children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;”
- “children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));”
- “children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and”
- “migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described” above.

Public School of Choice Transition Fund

To compensate districts for enrollment loss due to student movement to charter schools, the article replaces the public school of choice (PSOC) density aid provided in the FY2023 Budget with a transition fund that provides 60.0 percent of the foundation aid for new seats added in the first year, 30.0 percent in the second year, and no funding in the third year.

According to the OMB, this initiative is modeled after a Massachusetts program, which offers 100.0 percent funding in the first year, 60.0 percent in the second year and 40.0 percent in the third year. However, the Massachusetts reimbursement program has changed several times since its inception in 1997. For example, in 2012 the law was changed to reflect 100.0 percent in the first year, and 25.0 percent for the following five years. This was reversed in FY2010, and the program again adopted the 100/60/40percent model. Furthermore, the program is subject to appropriation and has not always been fully funded, resulting in a prorated version of the reimbursement program for some fiscal years (providing less than 100/60/40 percent to LEAs). The Governor’s recommendation, while based on the Massachusetts program, is aimed at balancing the need to reimburse LEAs experiencing enrollment losses due shifts to PSOCs while ensuring that the program is fiscally responsible, sustainable, and predictable.

School Choice Density Aid

Article 10 of the FY2022 Budget as Enacted reestablished density aid for districts where 5.0 percent or more of the average daily membership (ADM) are enrolled in a charter or state school and provided \$1.0 million in education aid for FY2022. The category provided one \$500 payment for each new resident student enrolled in a charter or state school. For FY2022, the aid was calculated based on the number of new students attending a public school of choice since FY2019. In subsequent fiscal years, the \$500 was paid for each new charter or state school student relative to the previous year. In FY2023, the Budget included \$520,500 to fully fund this category. Article 8 of the Governor’s FY2024 Budget eliminates this aid category and replaces it with the Public School of Choice Transition Fund, mentioned above.

Article 9: Relating to Medical Assistance

This article modifies current laws governing the Hospital Licensing Fee (HLF); Disproportionate Share Hospitals (DSH) payments; person-centered, conflict-free case management for recipients living in Long-term Services and Support (LTSS) and Home and Community Based Services (HCBS) care; the effective date of the Certified Community Behavioral Health Clinics (CCBHCs); and, a rate increase for Cedar Family Centers.

FISCAL IMPACT

| Article 9 Fiscal Impact | | |
|------------------------------------|---------------|-----------------|
| | General | |
| | Revenue | All Funds |
| Increased HLF revenue | \$38.1 | \$38.1 |
| DSH payments | (6.6) | (14.7) |
| Conflict-Free Case Management | (6.5) | (14.4) |
| CCBH | (7.2) | (22.4) |
| Cedar Family Centers Rate Increase | (0.6) | (1.2) |
| Net Impact | \$17.2 | (\$13.4) |

\$ in millions. Total may not add due to rounding

ANALYSIS AND BACKGROUND

Hospital Licensing Fee (HLF)

The federal government allows states to assess taxes on health care provided the taxes are broad-based, uniformly imposed throughout a jurisdiction, and do not violate the hold harmless provisions specified in federal regulation. These taxes include revenue from patient care activity but exclude non-patient enterprises such as research, academic activity, or investment earnings. Rhode Island assesses a number of provider taxes, including a hospital licensing fee (HLF) authorized by RIGL 23-17-38.1. The HLF must be authorized annually. The article amends the HLF to bring the fee into compliance with federal Centers for Medicare and Medicaid Services (CMS) requirements. CMS determined that the current two-tiered HLF, which provided lower rates for Westerly and South County hospitals, did not comply with the broad based, uniformity and hold harmless provisions in the federal regulations, and, if not resolved, would threaten federal matching funds. In order to preserve federal Medicaid support, the State must come into compliance by July 31, 2023.

The proposal would shift to separate inpatient and outpatient hospital license fees, providing a three-tier structure within each class. The total state share raised from each tax will not exceed 6.0 percent of the net patient revenue for each applicable class. The proposed structure is expected to comply with CMS regulations.

The article is based on a proposal from the Hospital Association of Rhode Island (HARI) and Sellers Dorsey, a Medicaid consultant. The objective of the proposal is to bring the State's HLF into compliance, increase Medicaid managed care payments through a new State Directed Payment, and promote access to high-quality healthcare for Medicaid recipients. Since the current program improperly combined net patient service revenues for both inpatient and outpatient hospital services, the new proposal separates the HLF calculation into two distinct tax classes, inpatient and outpatient. Under the proposal, each class would use a three-tier tax system such that the total state share raised from each tax will not exceed 6.0 percent of the net patient revenue for each applicable class. The percentages are applied to a hospital's inpatient/outpatient net patient-services revenue for the first hospital fiscal year ending on or after January 1, 2022.

**Article 9: Relating to Medical Assistance
Hospital Tax Tiers**

| | Inpatient | Outpatient | |
|------|-----------|------------|--|
| Tier | Tax Rate | Tax Rate | Hospital Types Included in Tier |
| I | 13.54% | 13.73% | Hospitals that do not meet the description of Tiers II or III, including Bradley, Butler, Kent, Newport |
| II | 2.71% | 2.75% | <ul style="list-style-type: none"> • Acute care hospitals with high Medicaid/Uninsured costs, including Landmark, OLF, RIH, RWMC, and W&I • Independent Hospitals not part of a multi-hospital system, such as South County Hospital |
| III | 1.35% | 1.37% | Medicaid designate "low volume" hospitals, such as Westerly, Rehabilitative Hospitals, and the Rehabilitative Hospital of RI |

The proposal maintains the current licensing fee of 5.42 percent of net patient-services revenue for state-owned and operated hospitals, applied to a hospital's net patient-services revenue for the first hospital fiscal year ending on or after January 1, 2022. Since hospital net patient revenue is not generally reported until May, the updated base year information used for the final revenue number is not available for the Governor's Budget. The new proposal uses hospital fiscal year 2021 reported net patient-services revenue to produce a projected hospital fiscal year 2022 base.

The current governing regulation, 42 CFR 433.68(f)(3)(a), does not specify that the individual components of a tax model cannot exceed 6.0 percent, only that the revenue generated from the tax may not be greater than 6.0 percent of revenue. Recently, Massachusetts implemented a multi-tiered tax plan with four hospital categories at varying rates. The inpatient rate ranges from 1.1 percent to 14.3 percent.

This proposal is subject to approval of a waiver of the federal healthcare tax uniformity requirement from the United States Department of Health and Human Services by July 1, 2023. Pursuant to federal regulation, if a state is seeking a waiver of the uniform tax requirement, the state must demonstrate that the proposed tax plan is generally redistributive. 42 CFR 433.68(e)(2)(ii) provides that "If the State demonstrates to the Secretary's satisfaction that the value of B1/B2 is at least 1, CMS will automatically approve the waiver request."¹ According to HARI, under the current proposed model, the B1/B2 value for inpatient care is 2.85 and for outpatient care is 1.95.

The proposed licensing fee is estimated to generate a total of \$217.2 million across both classes, an increase of \$38.1 million relative to the November 2022 Revenue Estimating Conference estimate of \$179.1 million. This total includes \$2.8 million for the payment of the Eleanor Slater Hospital licensing fee. The increase revenue will continue to contribute toward Rhode Island's state share for Medicaid, at a level comparable to current levels, and toward payments to hospitals in Rhode Island.

The article requires quarterly payments of the HLF with full payment before June 30, 2024. Furthermore, on or before August 1, 2023, every hospital must submit to the tax administrator a return containing the correct computation of inpatient and outpatient net patient-services revenue for the fiscal year ending in 2022, and the licensing fee due on that amount.

Disproportionate Share Hospitals (DSH)

The Disproportionate Share Hospitals (DSH) payments are required under federal statute and intended to offset uncompensated care costs for hospitals in order to improve access for Medicaid and uninsured patients, as well as improving the financial stability of safety-net hospitals. The article identifies the DSH aggregate limit for FFY2024 at \$15.2 million and requires payment on or before June 15, 2024, and authorizes the Executive Office of Health and Human Services (EOHHS) to amend the state plan for next

¹ 42 CFR defines "B1" as the slope of the linear regression for the State's tax program if it were broad based and uniform, and "B2" as the slope of the linear regression for the State's tax program, as proposed.

year's payment. The Budget includes \$14.7 million for DSH payments in FY2024, including \$6.6 million in general revenue and \$8.1 million in federal funds.

In addition, the base year for calculating the DSH payment is advanced one fiscal year, to allow for the FY2024 payment, and the uncompensated care index is set at 5.30 percent for FFY2024, which remains unchanged from the FFY2020 level. This section also authorizes EOHHS to submit a state plan amendment to identify the aggregate DSH limit for FFY2024 and update the distribution method.

In FY2024, federal DSH allotments are scheduled to be reduced by \$8.0 billion nationally. Rhode Island's allotment is scheduled to be reduced by 90.0 percent, from \$83.4 million to \$8.4 million. The DSH program is intended to provide support to hospitals with a large percentage of uninsured patients. Based on a new distribution model intended to target funding toward uncompensated care, the DSH Health Reform Methodology (DHRH), the distribution of federal funds will be most reduced for states with higher insurance coverage rates, such as Rhode Island.

Medicaid Long-term Services and Support (LTSS)

In order to comply with federal regulations, states must separate case management from service delivery functions to ensure person-centered policies for recipients of LTSS in home and community-based centers. Ongoing federal matching funding upward of \$180.0 million is in jeopardy under the current Medicaid LTSS system, since a conflict of interest exists for certain providers and case management services are limited or inconsistent. This article is intended to bring Rhode Island into compliance with 42 CFR 441.301.

In March 2014, the Centers for Medicaid and Medicare Services (CMS) implemented a final rule requiring states to separate case management from service delivery to reduce conflicts of interest for services provided under home and community-based services (HCBS). According to EOHHS, Rhode Island is required to have a roadmap for complying with all facets of the HCBS rule by March 17, 2023, or risk losing federal matching funds. This article is intended to bring Rhode Island into compliance. As part of this initiative, EOHHS intends to define conflict-free case management (CFCM) consistently across populations and programs to ensure equity in access and service.

The Budget provides \$6.5 million in general revenue (\$14.4 million in all funds) to provide person-centered planning (PCP) and conflict-free case management (CFCM) to Medicaid beneficiaries who receive long-term services and supports (LTSS) in a home or community-based setting, as required by federal regulation. These resources are estimated to support six months of programming based on a January 1, 2024, start date.

Certified Community Behavioral Health Clinic (CCBHC)

The article moves the deadline for establishing a CCBHC from July 1, 2023, to February 1, 2024, to give EOHHS and the Department for Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) time to establish rates consistent with the federal model and to certify providers. The Budget also includes an increase of \$7.2 million in general revenue (\$22.4 million all funds) to administer the CCBHC.

In 2017, the Substance Abuse and Mental Health Services Agency (SAMHSA) selected eight states to participate in the demonstration program including New York and Minnesota. Case studies in both of these states found cost savings and reduction in utilization of emergency department and inpatient hospitalization of more than 50.0 percent, as a result of the program. Currently, 10 states are participating in the CCBHC federal demonstration program. EOHHS projects that full implementation of the program will result in improved access to behavioral health services and a reduction in emergency department and inpatient utilization.

EOHHS intends to implement the PPS-2 methodology which is a cost-based, per-clinic monthly rate that applies uniformly to all CCBHC services rendered by a certified clinic; consequently, Article 9 strikes the reference in the enacted legislation that references a daily rate. Each CCBHC will submit a cost report with all allowable costs by population. These reports will be used to establish a per-member-per-month (PMPM)

rate for each population. The first costs reports are due in December 2022; consequently, EOHHS used a services-based rate a proxy to create a placeholder for the budget request.

The initiative consists of three phases:

- Phase I consists of the CCBHC Infrastructure Grant program currently underway with SFRF funds that focuses on assessment and the development of organizational capacity for program implementation.
- Phase II will focus on the establishment of measures and the submission of baseline data using the 22 CMS CCBHC metrics through a pay-for-reporting model.
- Phase III will focus on performance relative to established measures and model sustainability.

EOHHS met the August 1, 2022, deadline for the grant application process through a Request for Proposals (RFP) issued on July 31, 2022. On September 21, EOHHS sent tentative Letters of Award to eight CCHBC agencies for 10 sites, and to 14 Designated Collaborating Organizations (DCOs) for 20 sites.

The article eliminates the December 1, 2022, deadline for the submission of a detailed cost reports from participating organizations, and the January 15, 2023, deadline for the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) to determine how many health clinics and be certified and the cost for each. In a letter dated, January 17, 2023, EOHHS proposes an alternative deadline for the cost report submission of February 15, 2023, and for the development of the budget of April 30, 2023.

Amendments to the Rhode Island Medicaid Reform Act Resolution

Cedar Rate Increase: The article would authorize EOHHS to seek a waiver amendment to implement an increase to the exiting fee-for-service and managed care rates for the Cedar Family Centers. The Cedar Family Centers provide care management to help families of Children and Youth with Special Health Care Needs (CYSHCN) access support services, including those who are Medicaid eligible through the Katie Becket waiver. In May 2022, the State entered into a settlement agreement with the United States Department of Justice impacting members enrolled in Medicaid through the Katie Beckett waiver. Due to the settlement, approximately 600 families are eligible for enrollment with Cedar Family Centers which, in addition to the current scope of work, will be required to:

- Meet monthly with EOHHS to review performance, utilization of services, compliance, quality assurance, and continuous quality improvement.
- Engage in an Active Contract Management process with the State conducted through monthly meeting to review key performance indicators, deliverables, and other metrics.
- Be responsible for monitoring the receipt of services by Members and actions taken if deliverables are not received.

According to EOHHS, Cedar Family Services has not received a rate increase since 2016 and the additional scope of work confirm that the current rate and payment structure is not adequate to ensure sustainability. The Budget provides an increase of \$551,955 in general revenue (\$1.2 million all funds) to support a rate increase and adequate pay structure to support and expand the Cedar Family Centers.

Analyst Note: At the time of publication, it is unclear if the rate review being conducted through the Office of the Health Insurance Commissioner (OHIC) will include the rates paid to the Cedar Family Centers.

Hospital State Directed Managed Care Payment: The article authorizes EOHHS to establish a new hospital state directed care payment with payments made on a quarterly basis.

Hospital Licensing Fee (HLF): The article authorizes EOHHS to pursue federal approval from the federal Centers for Medicare and Medicaid Services (CMS) for a new hospital licensing rate including a three-tiered rate for non-government owned hospitals and on rate for government-owned and operated hospitals.

Article 10: Relating to Reproductive Healthcare

This article repeals RIGL 36-12-2.1 Health Insurance Benefits – Coverage for Abortions Excluded, removing the abortion coverage exclusion for state employee insurance plans. The article also amends RIGL 42-12.3-3 to expand abortion coverage for Medicaid-covered individuals.

- **Health Insurance Benefits:** The article allows state employee insurance plans to provide abortion coverage.
- **Medicaid Enrollees:** The article expands the Reproductive Privacy Act of 2019 to individuals enrolled in Medicaid, ensuring Medicaid recipients have full access to termination of pregnancy services permitted under RIGL 23-4.130-2; however, federal funds may not be used to support such services unless authorized under federal law.

FISCAL IMPACT

The article allows state employee insurance plans to provide abortion coverage. The Budget includes \$29,500 in health insurance internal service fund expenses within the Department of Administration to pay for the anticipated services to state employees, through Blue Cross Blue Shield of Rhode Island (BCBSRI). The following table illustrates a cost estimate using data provided by Segal, the health benefits actuarial service contracted by the Department of Administration.

Analyst Note: The Segal report provided a BCBSRI cost range of \$25,000 to \$34,000 and the Budget Office used the average of the stated cost range, or \$29,500. The actual cost will be impacted with the reduction of co-insurance costs. In addition, the new costs will offset the potential full medical costs associated with full-term pregnancies.

| State Employees | |
|--|-----------------|
| Percentage that had elective procedure (Segal) | 0.20% |
| Number of covered state employees | 8,400 |
| Anticipated procedures | 17 |
| Average cost per procedure (Segal) | \$1,750 |
| Total - New Costs | \$29,400 |

The Budget also includes \$592,405 in general revenue, including \$56,021 in one-time system costs, to support the expansion of termination of pregnancy services to individuals enrolled in Medicaid. The Executive Office of Health and Human Services provided the cost estimate based on the 2021-2022 Medicaid claims and data reported by the Centers for Disease Control and Prevention. The estimate is based on a projection of 978 procedures at a unit cost of \$548.

The estimated number of procedures is based on the 2020 Rhode Island abortion rate of 12.6 per 1,000 females aged 15-44 years, as reported by the CDC, and an estimated 77,651 eligible maternity-aged (15-44 years old) Medicaid enrollees. While acknowledging that the Medicaid population is not necessarily representative of the general population, the CDC does not stratify rates by insurance coverage. The estimate of maternity-aged females is from the November 2022 Caseload Estimating Conference for FY2024.

The average cost of \$548 based is on the two most recent years of Rhode Island Medicaid claims (2021-2022). During this time, the number of claims ranged from 43 in FY2021 to 29 in FY2022, with an average cost per claim of \$437 and \$724, respectively. The total amount paid was \$18,779 in FY2021 and \$21,009 in FY2022. The cost per claim of \$548 is the weighted average of total amount paid over the two fiscal years divided by the total number of claims. This estimate reflects new general revenue spending to cover abortions for those insured by Medicaid.

Since this service must be provided from state funds only, implementation costs are needed to create a new establish the procedure code in the MMIS. EOHHS estimates this will cost \$56,021 in general revenue. EOHHS cannot use federal funds on costs related to this initiative. This is based on an estimate of 450 hours at a rate of \$124.49 per hour.

| Medicaid Enrollees | |
|--|------------------|
| Percentage that had elective procedure (EOHHS) | 1.26% |
| Number of covered Medicaid Enrollees | 77,651 |
| Anticipated procedures | 979 |
| Average cost per procedure (EOHHS) | \$548 |
| New Medical Costs | \$536,384 |
| Implementation cost hours (EOHHS) | 450 |
| Implementation cost rate (EOHHS) | \$124.49 |
| New Implementation Costs | \$56,021 |
| Total Costs | \$592,405 |

Analyst Note: According to the Rhode Island Department of Administration's Office of Employee Benefits, the difference in the pregnancy termination costs between BCBSRI and Medicaid is the rate negotiated and determined by the two insurers.

ANALYSIS AND BACKGROUND

State Employee Insurance Coverage

This article repeals RIGL 36-12-12.1 that prohibits state employee insurance plans covering the costs associated for abortion services.

Medicaid-Covered Individuals

The article expands the Reproductive Privacy Act of 2019 to individuals enrolled in Medicaid, ensuring Medicaid recipients have full access to termination of pregnancy services permitted under RIGL 23-4.13-2; and repeals RIGL 36-12-2.1, the language excluding health coverage for abortions. However, per the "Hyde Amendment" federal funds may not be used to support such services unless authorized under federal law. The Hyde Amendment (a rule that is annually attached to Congressional appropriation bills and approved every year by Congress), federal funds can only be used for abortions if the pregnancy is a result of rape, incest, or if it is determined to endanger the pregnant individual's life.

By ensuring state funding for reproductive healthcare for those eligible for Medicaid, Rhode Island will ensure reproductive rights for most low-income residents.

According to information from the Kaiser Family Foundation (KFF) analysis, "[The Hyde Amendment and Coverage for Abortion Services, March 5, 2021](#)", four New England states use state funds to pay for abortions for those eligible for Medicaid; only Rhode Island and New Hampshire prohibit the use. In addition, twelve other states, including New York, New Jersey, and Maryland also use state funds to pay for abortions for those eligible for Medicaid.

Article 11: Relating to Lease Agreements for Leased Office and Operating Space

This article authorizes various lease agreements for office and operating spaces as required by RIGL 37-6-2(d), which requires approval of the General Assembly for any new or extended lease agreements meeting certain conditions. Of the proposed leases, three are renewals of existing leases, one is a new lease on a specified property, and one is a request for proposals for a to-be-determined location.

FISCAL IMPACT

| State Agency | Renewal or New Lease | Location | Sq. Ft. | Lease Term | Aggregate Rent | Max. Annualized | Current Lease Expires |
|------------------------------------|----------------------|------------------------------------|---------------|------------|----------------|-----------------|-----------------------|
| Human Services | Renewal | 31 John Clarke Road, Middletown | 4,400 | 5-years | \$485,980 | \$91,196 | November 30, 2023 |
| Human Services | New Lease | 125 Holden Street, Providence | 17,000 | 10-years | \$5,448,840 | 476,000* | N/A |
| Children, Youth, and Families | Renewal | 530 Wood Street, Bristol | 15,963 | 5-years | \$1,718,383.50 | \$353,092.50** | July 31, 2023 |
| Revenue | Renewal | 2000 Diamond Hill Road, Woonsocket | 4,877 | 5-years | \$392,598.50 | \$78,519.70 | November 30, 2023 |
| Elementary and Secondary Education | New Lease | To Be Determined | 25,000-30,000 | 5-years | *** | *** | N/A |

*Rent is not to exceed \$476,000 in the first year and an annual increase of the greater of either 3% or the Consumer Price Index for the remainder of the lease term

**Aggregate base rent is not to exceed \$337,399.50 in years one (1) through three (3), and \$353,092.50 in years four (4) through five (5)

*** Aggregate base rent for this lease is not to exceed "a commercially reasonable amount to be determined through a procurement process"

ANALYSIS AND BACKGROUND

The article authorizes five lease agreements pursuant to RIGL 37-6-2(d), which requires that the approval of the General Assembly for any new or extended lease or rental agreements with a term of five (5) years or longer where the State is the tenant and the aggregate rent during the proposed term is more than five hundred thousand dollars (\$500,000).

For agreements meeting these specifications, the law states that the State Properties Committee must submit a resolution including the following information: the purpose of the lease or rental agreement, the agency's current lease or rental costs, the expiration date of the present lease or rental agreement when applicable, the total range of costs of a new lease or rental agreement, the proposed term length of a new agreement, and the location and current owner of the property.

The article authorizes the following three lease renewals, one new lease agreement, and one request for proposals.

Department of Human Services - 31 John Clarke Road, Middletown

The article authorizes the Department of Human Services (DHS) to renew a lease agreement with Children and Family Services of Newport County for a five-year period, for 4,400 square feet of office space located at 31 John Clarke Road in Middletown. DHS currently holds a lease agreement with Children and Family Services of Newport County which expires on November 3, 2023. The article provides that aggregate rent for a five-year lease term in the lease agreement will be no greater than \$485,980. The lease is included in the authorization because the length of the lease, inclusive of extensions, meets the five-year threshold outlined in RIGL 37-6-2.

Department of Human Services - 125 Holden Street, Providence

The article authorizes the Department of Human Services (DHS) to begin a new lease agreement with Paolino Properties for a ten-year period, for 17,000 square feet of office space located at 125 Holden Street in Providence. DHS requires additional office space to accommodate in-person customer service activities. The article provides that aggregate rent for a five-year lease term in the lease agreement will be no greater than \$5.4 million. The lease is included in the authorization because the value of the lease, inclusive of extensions, exceeds the five-year, and \$500,000 thresholds outlined in RIGL 37-6-2.

Department of Children, Youth, and Families – 530 Wood Street, Bristol

The article authorizes the Department of Children, Youth, and Families (DCYF) to renew a lease agreement with WSA Property, Inc. for approximately 15,693 square feet of office space at 530 Wood Street, Bristol. The property serves as an essential location for one of DCYF’s regional offices, and the current lease is set to expire on July 31, 2023. The article provides the aggregate base rent not to exceed \$1,718,383.50 for a term not to exceed five (5) years. The annual rent during the renewal term is not to exceed \$337,399.50 in years one (1) through three (3) and \$353,092.50 in years four (4) through five (5).

Department of Revenue – 2000 Diamond Hill Road, Woonsocket

The article authorizes the Department of Revenue (DOR) to renew a lease agreement with Woonsocket Mall, LLC for a term not to exceed five years. The DOR currently holds a lease agreement with Woonsocket Mall, LLC, for an approximately 4,877 square foot space located at 2000 Diamond Hill Road, Woonsocket, which expires on November 30, 2023. The space is used as a satellite customer services center for the Division of Motor Vehicles. The article provides that the annual base rent for a five-year lease term in the lease agreement shall not exceed \$78,519.70 annually

Department of Elementary and Secondary Education (To Be Determined)

Through the resolution, the General Assembly would approve the lease agreement for an undetermined location, a term not to exceed five years, and an aggregate rent not to exceed a commercially reasonable amount as determined through the procurement process. The lease would enable the Department of Elementary and Secondary Education to move from its current location in the Shepard Building in Providence.

Analyst Note: This section does not appear to meet the requirements of RIGL 37-6-2 requiring that any lease agreement that carries a term of five years or longer “shall provide information relating to ... the agency’s current lease or rental costs, ... the range of costs of a new lease or rental agreement, ... and the location and owner of the desired property.”

The Department currently occupies 61,044 square feet of State-owned space in the Shepard Building. According to a review conducted by the Department of Administration (DOA), the current space does not meet the needs of the Department. The request for proposals (RFP) is expected to advertise for a space providing 25,000 to 30,000 square feet of office space and parking spaces in Providence.

Analyst Note: The Department of Elementary and Secondary Education requested \$1.3 million for the rental/lease of property in FY2024; however, the request was not included in the Governor’s recommendation.

Article 12: Relating to Effective Date

This article provides that the Act will take effect on July 1, 2023, except as otherwise provided herein.

Senate Fiscal Office

Stephen H. Whitney

Senate Fiscal Advisor

Emmery Brakke-Lautman

Legislative Fiscal Analyst I

Arts Council
Behavioral Healthcare, Developmental
Disabilities, and Hospitals
Children, Youth, and Families
Child Advocate
Mental Health Advocate

Robert C. Bromley

Senior Legislative Fiscal Analyst

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

Kelly M. Carpenter

Senior Legislative Fiscal Analyst

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

MaKenzie Pratt

Legislative Fiscal Analyst I

Business Regulation
Commission on Deaf and Hard of Hearing
Ethics Commission
Health
HealthSource RI
Human Services

David Schultz

Legislative Fiscal Analyst I

Attorney General
Corrections
Labor and Training
Public Defender
Public Safety
RI Airport Corporation
RI Public Transit Authority
RI Turnpike & Bridge Authority
Transportation

David Tremblay

Deputy Senate Fiscal Advisor

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