

2018 -- S 2218

=====
LC003155
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO TAXATION

Introduced By: Senators Pearson, Seveney, DiPalma, Satchell, and Metts

Date Introduced: February 01, 2018

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-18-18, 44-18-19, 44-18-20 and 44-18-30 of the General Laws
2 in Chapter 44-18 entitled "Sales and Use Taxes - Liability and Computation" are hereby amended
3 to read as follows:

4 **44-18-18. Sales tax imposed.**

5 A tax is imposed upon sales at retail in this state including charges for rentals of living
6 quarters in hotels as defined in § 42-63.1-2, rooming houses, or tourist camps, at the rate of six
7 percent (6%) of the gross receipts of the retailer from the sales or rental charges; provided, that
8 the tax imposed on charges for the rentals applies only to the first period of not exceeding thirty
9 (30) consecutive calendar days of each rental; provided, further, that for the period commencing
10 July 1, 1990, the tax rate is ~~seven percent (7%)~~ six and one-quarter percent (6.25%). The tax is
11 paid to the tax administrator by the retailer at the time and in the manner provided. Excluded from
12 this tax are those living quarters in hotels, rooming houses, or tourist camps for which the
13 occupant has a written lease for the living quarters which lease covers a rental period of twelve
14 (12) months or more. In recognition of the work being performed by the streamlined sales and use
15 tax governing board, upon passage of any federal law that authorizes states to require remote
16 sellers to collect and remit sales and use taxes, the rate imposed under this section shall be
17 reduced from seven percent (7%) to ~~six and one-half percent (6.5%)~~ six and one-quarter percent
18 (6.25%). The ~~six and one-half percent (6.5%)~~ six and one-quarter percent (6.25%) rate shall take
19 effect on the date that the state requires remote sellers to collect and remit sale and use taxes.

1 **44-18-19. Collection of sales tax by retailer.**

2 The retailer shall add the tax imposed by this chapter to the sale price or charge, and
3 when added the tax constitutes a part of the price or charge, is a debt from the consumer or user to
4 the retailer, and is recoverable at law in the same manner as other debts; provided, that the
5 amount of tax that the retailer collects from the consumer or user is as follows:

6 Amount of Sale	Amount of Tax
7 \$0.01 to \$.08 inclusive	No Tax
8 .09 to .24 inclusive	.01
9 .25 to .41 inclusive	.02
10 .42 to .58 inclusive	.03
11 .59 to .74 inclusive	.04
12 .75 to .91 inclusive	.05
13 .92 to 1.08 inclusive	.06 <u>.0625</u>

14 and where the amount of the sale is more than one dollar and eight cents (\$1.08) the
15 amount of the tax is computed at the rate of six and one-quarter percent (6.25%). ~~six percent~~
16 ~~(6%); provided, that the amount of tax that the retailer collects from the consumer or user for the~~
17 ~~period commencing July 1, 1990 is as follows:~~

18 Amount of Sale	Amount of Tax
19 \$0.01 to \$.07 inclusive	No Tax
20 .08 to .21 inclusive	.01
21 .22 to .35 inclusive	.02
22 .36 to .49 inclusive	.03
23 .50 to .64 inclusive	.04
24 .65 to .78 inclusive	.05
25 .79 to .92 inclusive	.06
26 .93 to 1.07 inclusive	.07

27 ~~and where the amount of the sale is more than one dollar and seven cents (\$1.07) the~~
28 ~~amount of the tax is computed at the rate of seven percent (7%).~~

29 For the purpose of adding and collecting the tax imposed by this chapter to be paid to the
30 state or to be reimbursed to the seller by the purchaser, the tax computation shall be carried to the
31 third decimal place and it shall be rounded to a whole cent, rounding up to the next cent whenever
32 the third decimal place is greater than 4.

33 **44-18-20. Use tax imposed.**

34 (a) An excise tax is imposed on the storage, use, or other consumption in this state of

1 tangible personal property; prewritten computer software delivered electronically or by load and
2 leave; or services as defined in § 44-18-7.3, including a motor vehicle, a boat, an airplane, or a
3 trailer, purchased from any retailer at the rate of six percent (6%) of the sale price of the property.

4 (b) An excise tax is imposed on the storage, use, or other consumption in this state of a
5 motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle
6 dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent
7 (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

8 (c) The word "trailer," as used in this section and in § 44-18-21, means and includes those
9 defined in § 31-1-5(a) -- (e) and also includes boat trailers, camping trailers, house trailers, and
10 mobile homes.

11 (d) Notwithstanding the provisions contained in this section and in § 44-18-21 relating to
12 the imposition of a use tax and liability for this tax on certain casual sales, no tax is payable in
13 any casual sale:

14 (1) When the transferee or purchaser is the spouse, mother, father, brother, sister, or child
15 of the transferor or seller;

16 (2) When the transfer or sale is made in connection with the organization, reorganization,
17 dissolution, or partial liquidation of a business entity, provided:

18 (i) The last taxable sale, transfer, or use of the article being transferred or sold was
19 subjected to a tax imposed by this chapter;

20 (ii) The transferee is the business entity referred to or is a stockholder, owner, member, or
21 partner; and

22 (iii) Any gain or loss to the transferor is not recognized for income tax purposes under the
23 provisions of the federal income tax law and treasury regulations and rulings issued thereunder;

24 (3) When the sale or transfer is of a trailer, other than a camping trailer, of the type
25 ordinarily used for residential purposes and commonly known as a house trailer or as a mobile
26 home; or

27 (4) When the transferee or purchaser is exempt under the provisions of § 44-18-30 or
28 other general law of this state or special act of the general assembly of this state.

29 (e) The term "casual" means a sale made by a person other than a retailer, provided, that
30 in the case of a sale of a motor vehicle, the term means a sale made by a person other than a
31 licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed
32 under the provisions of subsections (a) and (b) of this section on the storage, use, or other
33 consumption in this state of a used motor vehicle less than the product obtained by multiplying
34 the amount of the retail dollar value at the time of purchase of the motor vehicle by the applicable

1 tax rate; provided, that where the amount of the sale price exceeds the amount of the retail dollar
2 value, the tax is based on the sale price. The tax administrator shall use as his or her guide the
3 retail dollar value as shown in the current issue of any nationally recognized, used-vehicle guide
4 for appraisal purposes in this state. On request within thirty (30) days by the taxpayer after
5 payment of the tax, if the tax administrator determines that the retail dollar value as stated in this
6 subsection is inequitable or unreasonable, he or she shall, after affording the taxpayer reasonable
7 opportunity to be heard, re-determine the tax.

8 (f) Every person making more than five (5) retail sales of tangible personal property or
9 prewritten computer software delivered electronically or by load and leave, or services as defined
10 in § 44-18-7.3 during any twelve-month (12) period, including sales made in the capacity of
11 assignee for the benefit of creditors or receiver or trustee in bankruptcy, is considered a retailer
12 within the provisions of this chapter.

13 (g) (1) "Casual sale" includes a sale of tangible personal property not held or used by a
14 seller in the course of activities for which the seller is required to hold a seller's permit or permits
15 or would be required to hold a seller's permit or permits if the activities were conducted in this
16 state, provided that the sale is not one of a series of sales sufficient in number, scope, and
17 character (more than five (5) in any twelve-month (12) period) to constitute an activity for which
18 the seller is required to hold a seller's permit or would be required to hold a seller's permit if the
19 activity were conducted in this state.

20 (2) Casual sales also include sales made at bazaars, fairs, picnics, or similar events by
21 nonprofit organizations, that are organized for charitable, educational, civic, religious, social,
22 recreational, fraternal, or literary purposes during two (2) events not to exceed a total of six (6)
23 days duration each calendar year. Each event requires the issuance of a permit by the division of
24 taxation. Where sales are made at events by a vendor that holds a sales tax permit and is not a
25 nonprofit organization, the sales are in the regular course of business and are not exempt as casual
26 sales.

27 (h) The use tax imposed under this section for the period commencing July 1, 1990, is at
28 the rate of ~~seven percent (7%)~~ six and one-quarter percent (6.25%). In recognition of the work
29 being performed by the streamlined sales and use tax governing board, upon passage of any
30 federal law that authorizes states to require remote sellers to collect and remit sales and use taxes,
31 effective the first (1st) day of the first (1st) state fiscal quarter following the change, the rate
32 imposed under § 44-18-18 shall be reduced from seven percent (7.0%) to ~~six and one-half percent~~
33 ~~(6.5%)~~ six and one-quarter percent (6.25%). The ~~six and one-half percent (6.5%)~~ six and one-
34 quarter percent (6.25%) rate shall take effect on the date that the state requires remote sellers to

1 collect and remit sales and use taxes.

2 **44-18-30. Gross receipts exempt from sales and use taxes.**

3 There are exempted from the taxes imposed by this chapter the following gross receipts:

4 (1) Sales and uses beyond constitutional power of state. From the sale and from the
5 storage, use, or other consumption in this state of tangible personal property the gross receipts
6 from the sale of which, or the storage, use, or other consumption of which, this state is prohibited
7 from taxing under the Constitution of the United States or under the constitution of this state.

8 (2) Newspapers.

9 (i) From the sale and from the storage, use, or other consumption in this state of any
10 newspaper.

11 (ii) "Newspaper" means an unbound publication printed on newsprint that contains news,
12 editorial comment, opinions, features, advertising matter, and other matters of public interest.

13 (iii) "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or
14 similar item unless the item is printed for, and distributed as, a part of a newspaper.

15 (3) School meals. From the sale and from the storage, use, or other consumption in this
16 state of meals served by public, private, or parochial schools, school districts, colleges,
17 universities, student organizations, and parent-teacher associations to the students or teachers of a
18 school, college, or university whether the meals are served by the educational institutions or by a
19 food service or management entity under contract to the educational institutions.

20 (4) Containers.

21 (i) From the sale and from the storage, use, or other consumption in this state of:

22 (A) Non-returnable containers, including boxes, paper bags, and wrapping materials that
23 are biodegradable and all bags and wrapping materials utilized in the medical and healing arts,
24 when sold without the contents to persons who place the contents in the container and sell the
25 contents with the container.

26 (B) Containers when sold with the contents if the sale price of the contents is not required
27 to be included in the measure of the taxes imposed by this chapter.

28 (C) Returnable containers when sold with the contents in connection with a retail sale of
29 the contents or when resold for refilling.

30 (ii) As used in this subdivision, the term "returnable containers" means containers of a
31 kind customarily returned by the buyer of the contents for reuse. All other containers are "non-
32 returnable containers".

33 (5) (i) Charitable, educational, and religious organizations. From the sale to, as in defined
34 in this section, and from the storage, use, and other consumption in this state, or any other state of

1 the United States of America, of tangible personal property by hospitals not operated for a profit;
2 "educational institutions" as defined in subdivision (18) not operated for a profit; churches,
3 orphanages, and other institutions or organizations operated exclusively for religious or charitable
4 purposes; interest-free loan associations not operated for profit; nonprofit, organized sporting
5 leagues and associations and bands for boys and girls under the age of nineteen (19) years; the
6 following vocational student organizations that are state chapters of national vocational students
7 organizations: Distributive Education Clubs of America (DECA); Future Business Leaders of
8 America, Phi Beta Lambda (FBLA/PBL); Future Farmers of America (FFA); Future
9 Homemakers of America/Home Economics Related Occupations (FHA/HERD); Vocational
10 Industrial Clubs of America (VICA); organized nonprofit golden age and senior citizens clubs for
11 men and women; and parent-teacher associations; and from the sale, storage, use, and other
12 consumption in this state, of and by the Industrial Foundation of Burrillville, a Rhode Island
13 domestic nonprofit corporation.

14 (ii) In the case of contracts entered into with the federal government, its agencies, or
15 instrumentalities, this state, or any other state of the United States of America, its agencies, any
16 city, town, district, or other political subdivision of the states; hospitals not operated for profit;
17 educational institutions not operated for profit; churches, orphanages, and other institutions or
18 organizations operated exclusively for religious or charitable purposes, the contractor may
19 purchase such materials and supplies (materials and/or supplies are defined as those that are
20 essential to the project) that are to be utilized in the construction of the projects being performed
21 under the contracts without payment of the tax.

22 (iii) The contractor shall not charge any sales or use tax to any exempt agency,
23 institution, or organization but shall in that instance provide his or her suppliers with certificates
24 in the form as determined by the division of taxation showing the reason for exemption and the
25 contractor's records must substantiate the claim for exemption by showing the disposition of all
26 property so purchased. If any property is then used for a nonexempt purpose, the contractor must
27 pay the tax on the property used.

28 (6) Gasoline. From the sale and from the storage, use, or other consumption in this state
29 of: (i) gasoline and other products taxed under chapter 36 of title 31 and (ii) fuels used for the
30 propulsion of airplanes.

31 (7) Purchase for manufacturing purposes.

32 (i) From the sale and from the storage, use, or other consumption in this state of computer
33 software, tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration,
34 and water, when the property or service is purchased for the purpose of being manufactured into a

1 finished product for resale and becomes an ingredient, component, or integral part of the
2 manufactured, compounded, processed, assembled, or prepared product, or if the property or
3 service is consumed in the process of manufacturing for resale computer software, tangible
4 personal property, electricity, natural gas, artificial gas, steam, refrigeration, or water.

5 (ii) "Consumed" means destroyed, used up, or worn out to the degree or extent that the
6 property cannot be repaired, reconditioned, or rendered fit for further manufacturing use.

7 (iii) "Consumed" includes mere obsolescence.

8 (iv) "Manufacturing" means and includes: manufacturing, compounding, processing,
9 assembling, preparing, or producing.

10 (v) "Process of manufacturing" means and includes all production operations performed
11 in the producing or processing room, shop, or plant, insofar as the operations are a part of and
12 connected with the manufacturing for resale of tangible personal property, electricity, natural gas,
13 artificial gas, steam, refrigeration, or water and all production operations performed insofar as the
14 operations are a part of and connected with the manufacturing for resale of computer software.

15 (vi) "Process of manufacturing" does not mean or include administration operations such
16 as general office operations, accounting, collection, or sales promotion, nor does it mean or
17 include distribution operations that occur subsequent to production operations, such as handling,
18 storing, selling, and transporting the manufactured products, even though the administration and
19 distribution operations are performed by, or in connection with, a manufacturing business.

20 (8) State and political subdivisions. From the sale to, and from the storage, use, or other
21 consumption by, this state, any city, town, district, or other political subdivision of this state.
22 Every redevelopment agency created pursuant to chapter 31 of title 45 is deemed to be a
23 subdivision of the municipality where it is located.

24 (9) Food and food ingredients. From the sale and storage, use, or other consumption in
25 this state of food and food ingredients as defined in § 44-18-7.1(l).

26 For the purposes of this exemption "food and food ingredients" shall not include candy,
27 soft drinks, dietary supplements, alcoholic beverages, tobacco, food sold through vending
28 machines, or prepared food, as those terms are defined in § 44-18-7.1, unless the prepared food is:

29 (i) Sold by a seller whose primary NAICS classification is manufacturing in sector 311,
30 except sub-sector 3118 (bakeries);

31 (ii) Sold in an unheated state by weight or volume as a single item;

32 (iii) Bakery items, including: bread, rolls, buns, biscuits, bagels, croissants, pastries,
33 donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas; and

34 is not sold with utensils provided by the seller, including: plates, knives, forks, spoons,

1 glasses, cups, napkins, or straws.

2 (10) Medicines, drugs, and durable medical equipment. From the sale and from the
3 storage, use, or other consumption in this state, of:

4 (i) "Drugs" as defined in § 44-18-7.1(h)(i), sold on prescriptions, medical oxygen, and
5 insulin whether or not sold on prescription. For purposes of this exemption drugs shall not
6 include over-the-counter drugs and grooming and hygiene products as defined in § 44-18-
7 7.1(h)(iii).

8 (ii) Durable medical equipment as defined in § 44-18-7.1(k) for home use only,
9 including, but not limited to: syringe infusers, ambulatory drug delivery pumps, hospital beds,
10 convalescent chairs, and chair lifts. Supplies used in connection with syringe infusers and
11 ambulatory drug delivery pumps that are sold on prescription to individuals to be used by them to
12 dispense or administer prescription drugs, and related ancillary dressings and supplies used to
13 dispense or administer prescription drugs, shall also be exempt from tax.

14 (11) Prosthetic devices and mobility enhancing equipment. From the sale and from the
15 storage, use, or other consumption in this state, of prosthetic devices as defined in § 44-18-7.1(t),
16 sold on prescription, including, but not limited to: artificial limbs, dentures, spectacles,
17 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
18 prescription; and mobility enhancing equipment as defined in § 44-18-7.1(p), including
19 wheelchairs, crutches and canes.

20 (12) Coffins, caskets, and burial garments. From the sale and from the storage, use, or
21 other consumption in this state of coffins or caskets, and shrouds or other burial garments that are
22 ordinarily sold by a funeral director as part of the business of funeral directing.

23 (13) Motor vehicles sold to nonresidents.

24 (i) From the sale, subsequent to June 30, 1958, of a motor vehicle to a bona fide
25 nonresident of this state who does not register the motor vehicle in this state, whether the sale or
26 delivery of the motor vehicle is made in this state or at the place of residence of the nonresident.
27 A motor vehicle sold to a bona fide nonresident whose state of residence does not allow a like
28 exemption to its nonresidents is not exempt from the tax imposed under § 44-18-20. In that event,
29 the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal to the rate that
30 would be imposed in his or her state of residence not to exceed the rate that would have been
31 imposed under § 44-18-20. Notwithstanding any other provisions of law, a licensed motor vehicle
32 dealer shall add and collect the tax required under this subdivision and remit the tax to the tax
33 administrator under the provisions of chapters 18 and 19 of this title. When a Rhode Island
34 licensed, motor vehicle dealer is required to add and collect the sales and use tax on the sale of a

1 motor vehicle to a bona fide nonresident as provided in this section, the dealer in computing the
2 tax takes into consideration the law of the state of the nonresident as it relates to the trade-in of
3 motor vehicles.

4 (ii) The tax administrator, in addition to the provisions of §§ 44-19-27 and 44-19-28, may
5 require any licensed motor vehicle dealer to keep records of sales to bona fide nonresidents as the
6 tax administrator deems reasonably necessary to substantiate the exemption provided in this
7 subdivision, including the affidavit of a licensed motor vehicle dealer that the purchaser of the
8 motor vehicle was the holder of, and had in his or her possession a valid out-of-state motor
9 vehicle registration or a valid out-of-state driver's license.

10 (iii) Any nonresident who registers a motor vehicle in this state within ninety (90) days of
11 the date of its sale to him or her is deemed to have purchased the motor vehicle for use, storage,
12 or other consumption in this state, and is subject to, and liable for, the use tax imposed under the
13 provisions of § 44-18-20.

14 (14) Sales in public buildings by blind people. From the sale and from the storage, use, or
15 other consumption in all public buildings in this state of all products or wares by any person
16 licensed under § 40-9-11.1.

17 (15) Air and water pollution control facilities. From the sale, storage, use, or other
18 consumption in this state of tangible personal property or supplies acquired for incorporation into
19 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
20 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
21 of title 46 and chapter 25 of title 23, respectively, and that has been certified as approved for that
22 purpose by the director of environmental management. The director of environmental
23 management may certify to a portion of the tangible personal property or supplies acquired for
24 incorporation into those facilities or used and consumed in the operation of those facilities to the
25 extent that that portion has as its primary purpose the control of the pollution or contamination of
26 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
27 device, building, machinery, or equipment.

28 ~~(16) Camps. From the rental charged for living quarters, or sleeping, or housekeeping~~
29 ~~accommodations at camps or retreat houses operated by religious, charitable, educational, or~~
30 ~~other organizations and associations mentioned in subsection (5), or by privately owned and~~
31 ~~operated summer camps for children.~~

32 (17) Certain institutions. From the rental charged for living or sleeping quarters in an
33 institution licensed by the state for the hospitalization, custodial, or nursing care of human beings.

34 (18) Educational institutions. From the rental charged by any educational institution for

1 living quarters, or sleeping, or housekeeping accommodations or other rooms or accommodations
2 to any student or teacher necessitated by attendance at an educational institution. "Educational
3 institution" as used in this section means an institution of learning not operated for profit that is
4 empowered to confer diplomas, educational, literary, or academic degrees; that has a regular
5 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
6 school year; that keeps and furnishes to students and others records required and accepted for
7 entrance to schools of secondary, collegiate, or graduate rank; and no part of the net earnings of
8 which inures to the benefit of any individual.

9 (19) Motor vehicle and adaptive equipment for persons with disabilities.

10 (i) From the sale of: (A) Special adaptations; (B) The component parts of the special
11 adaptations; or (C) A specially adapted motor vehicle; provided that the owner furnishes to the
12 tax administrator an affidavit of a licensed physician to the effect that the specially adapted motor
13 vehicle is necessary to transport a family member with a disability or where the vehicle has been
14 specially adapted to meet the specific needs of the person with a disability. This exemption
15 applies to not more than one motor vehicle owned and registered for personal, noncommercial
16 use.

17 (ii) For the purpose of this subsection the term "special adaptations" includes, but is not
18 limited to: wheelchair lifts, wheelchair carriers, wheelchair ramps, wheelchair securements, hand
19 controls, steering devices, extensions, relocations, and crossovers of operator controls, power-
20 assisted controls, raised tops or dropped floors, raised entry doors, or alternative signaling devices
21 to auditory signals.

22 (iii) From the sale of: (a) Special adaptations, (b) The component parts of the special
23 adaptations, for a "wheelchair accessible taxicab" as defined in § 39-14-1, and/or a "wheelchair
24 accessible public motor vehicle" as defined in § 39-14.1-1.

25 (iv) For the purpose of this subdivision the exemption for a "specially adapted motor
26 vehicle" means a use tax credit not to exceed the amount of use tax that would otherwise be due
27 on the motor vehicle, exclusive of any adaptations. The use tax credit is equal to the cost of the
28 special adaptations, including installation.

29 (20) Heating fuels. From the sale and from the storage, use, or other consumption in this
30 state of every type of heating fuel.

31 (21) Electricity and gas. From the sale and from the storage, use, or other consumption in
32 this state of electricity and gas.

33 (22) Manufacturing machinery and equipment.

34 (i) From the sale and from the storage, use, or other consumption in this state of tools,

1 dies, molds, machinery, equipment (including replacement parts), and related items to the extent
2 used in an industrial plant in connection with the actual manufacture, conversion, or processing of
3 tangible personal property, or to the extent used in connection with the actual manufacture,
4 conversion, or processing of computer software as that term is utilized in industry numbers 7371,
5 7372, and 7373 in the standard industrial classification manual prepared by the Technical
6 Committee on Industrial Classification, Office of Statistical Standards, Executive Office of the
7 President, United States Bureau of the Budget, as revised from time to time, to be sold, or that
8 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
9 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
10 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
11 be sold in the regular course of business;

12 (ii) Machinery and equipment and related items are not deemed to be used in connection
13 with the actual manufacture, conversion, or processing of tangible personal property, or in
14 connection with the actual manufacture, conversion, or processing of computer software as that
15 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
16 manual prepared by the Technical Committee on Industrial Classification, Office of Statistical
17 Standards, Executive Office of the President, United States Bureau of the Budget, as revised from
18 time to time, to be sold to the extent the property is used in administration or distribution
19 operations;

20 (iii) Machinery and equipment and related items used in connection with the actual
21 manufacture, conversion, or processing of any computer software or any tangible personal
22 property that is not to be sold and that would be exempt under subdivision (7) or this subdivision
23 if purchased from a vendor or machinery and equipment and related items used during any
24 manufacturing, converting, or processing function is exempt under this subdivision even if that
25 operation, function, or purpose is not an integral or essential part of a continuous production flow
26 or manufacturing process;

27 (iv) Where a portion of a group of portable or mobile machinery is used in connection
28 with the actual manufacture, conversion, or processing of computer software or tangible personal
29 property to be sold, as previously defined, that portion, if otherwise qualifying, is exempt under
30 this subdivision even though the machinery in that group is used interchangeably and not
31 otherwise identifiable as to use.

32 (23) Trade-in value of motor vehicles. From the sale and from the storage, use, or other
33 consumption in this state of so much of the purchase price paid for a new or used automobile as is
34 allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller, or of

1 the proceeds applicable only to the automobile as are received from the manufacturer of
2 automobiles for the repurchase of the automobile whether the repurchase was voluntary or not
3 towards the purchase of a new or used automobile by the buyer. For the purpose of this
4 subdivision, the word "automobile" means a private passenger automobile not used for hire and
5 does not refer to any other type of motor vehicle.

6 (24) Precious metal bullion.

7 (i) From the sale and from the storage, use, or other consumption in this state of precious
8 metal bullion, substantially equivalent to a transaction in securities or commodities.

9 (ii) For purposes of this subdivision, "precious metal bullion" means any elementary
10 precious metal that has been put through a process of smelting or refining, including, but not
11 limited to: gold, silver, platinum, rhodium, and chromium, and that is in a state or condition that
12 its value depends upon its content and not upon its form.

13 (iii) The term does not include fabricated precious metal that has been processed or
14 manufactured for some one or more specific and customary industrial, professional, or artistic
15 uses.

16 (25) Commercial vessels. From sales made to a commercial ship, barge, or other vessel of
17 fifty (50) tons burden or over, primarily engaged in interstate or foreign commerce, and from the
18 repair, alteration, or conversion of the vessels, and from the sale of property purchased for the use
19 of the vessels including provisions, supplies, and material for the maintenance and/or repair of the
20 vessels.

21 (26) Commercial fishing vessels. From the sale and from the storage, use, or other
22 consumption in this state of vessels and other watercraft that are in excess of five (5) net tons and
23 that are used exclusively for "commercial fishing", as defined in this subdivision, and from the
24 repair, alteration, or conversion of those vessels and other watercraft, and from the sale of
25 property purchased for the use of those vessels and other watercraft including provisions,
26 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
27 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
28 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means
29 taking or attempting to take any fish, shellfish, crustacea, or bait species with the intent of
30 disposing of it for profit or by sale, barter, trade, or in commercial channels. The term does not
31 include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
32 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
33 license issued by the department of environmental management pursuant to § 20-2-27.1 that meet
34 the following criteria: (i) The operator must have a current U.S.C.G. license to carry passengers

1 for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii) U.S.C.G. vessel
2 documentation as to proof of Rhode Island home port status or a Rhode Island boat registration to
3 prove Rhode Island home port status; and (iv) The vessel must be used as a commercial passenger
4 carrying fishing vessel to carry passengers for fishing. The vessel must be able to demonstrate
5 that at least fifty percent (50%) of its annual gross income derives from charters or provides
6 documentation of a minimum of one hundred (100) charter trips annually; and (v) The vessel
7 must have a valid Rhode Island party and charter boat license. The tax administrator shall
8 implement the provisions of this subdivision by promulgating rules and regulations relating
9 thereto.

10 (27) Clothing and footwear. From the sales of articles of clothing, including footwear,
11 intended to be worn or carried on or about the human body for sales prior to October 1, 2012.
12 Effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including
13 footwear, intended to be worn or carried on or about the human body up to two hundred and fifty
14 dollars (\$250) of the sales price per item. For the purposes of this section, "clothing or footwear"
15 does not include clothing accessories or equipment or special clothing or footwear primarily
16 designed for athletic activity or protective use as these terms are defined in section 44-18-7.1(f).
17 In recognition of the work being performed by the streamlined sales and use tax governing board,
18 upon passage of any federal law that authorizes states to require remote sellers to collect and
19 remit sales and use taxes, this unlimited exemption will apply as it did prior to October 1, 2012.
20 The unlimited exemption on sales of clothing and footwear shall take effect on the date that the
21 state requires remote sellers to collect and remit sales and use taxes.

22 ~~(28) Water for residential use. From the sale and from the storage, use, or other~~
23 ~~consumption in this state of water furnished for domestic use by occupants of residential~~
24 ~~premises.~~

25 (29) Bibles. [Unconstitutional; see Ahlburn v. Clark, 728 A.2d 449 (R.I. 1999); see Notes
26 to Decisions.] From the sale and from the storage, use, or other consumption in the state of any
27 canonized scriptures of any tax-exempt nonprofit religious organization including, but not limited
28 to, the Old Testament and the New Testament versions.

29 (30) Boats.

30 (i) From the sale of a boat or vessel to a bona fide nonresident of this state who does not
31 register the boat or vessel in this state or document the boat or vessel with the United States
32 government at a home port within the state, whether the sale or delivery of the boat or vessel is
33 made in this state or elsewhere; provided, that the nonresident transports the boat within thirty
34 (30) days after delivery by the seller outside the state for use thereafter solely outside the state.

1 (ii) The tax administrator, in addition to the provisions of §§ 44-19-17 and 44-19-28, may
2 require the seller of the boat or vessel to keep records of the sales to bona fide nonresidents as the
3 tax administrator deems reasonably necessary to substantiate the exemption provided in this
4 subdivision, including the affidavit of the seller that the buyer represented himself or herself to be
5 a bona fide nonresident of this state and of the buyer that he or she is a nonresident of this state.

6 (31) ~~Youth activities equipment. From the sale, storage, use, or other consumption in this
7 state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
8 eleemosynary organizations, for the purposes of youth activities that the organization is formed to
9 sponsor and support; and by accredited elementary and secondary schools for the purposes of the
10 schools or of organized activities of the enrolled students.~~

11 (32) Farm equipment. From the sale and from the storage or use of machinery and
12 equipment used directly for commercial farming and agricultural production; including, but not
13 limited to: tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
14 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
15 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and
16 other farming equipment, including replacement parts appurtenant to or used in connection with
17 commercial farming and tools and supplies used in the repair and maintenance of farming
18 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or
19 the production within this state of agricultural products, including, but not limited to, field or
20 orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or
21 production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to
22 the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued
23 prior to July 1, 2002. For exemptions issued or renewed after July 1, 2002, there shall be two (2)
24 levels. Level I shall be based on proof of annual, gross sales from commercial farming of at least
25 twenty-five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption
26 provided in this subdivision except for motor vehicles with an excise tax value of five thousand
27 dollars (\$5,000) or greater. Level II shall be based on proof of annual gross sales from
28 commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for
29 purchases subject to the exemption provided in this subdivision including motor vehicles with an
30 excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the
31 exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be
32 required for the prior year; for any renewal of an exemption granted in accordance with this
33 subdivision at either level I or level II, proof of gross annual sales from commercial farming at
34 the requisite amount shall be required for each of the prior two (2) years. Certificates of

1 exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption
2 and be valid for four (4) years after the date of issue. This exemption applies even if the same
3 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
4 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
5 vehicle is a farm vehicle as defined pursuant to § 31-1-8 and is eligible for registration displaying
6 farm plates as provided for in § 31-3-31.

7 (33) ~~Compressed air. From the sale and from the storage, use, or other consumption in the~~
8 ~~state of compressed air.~~

9 (34) Flags. From the sale and from the storage, consumption, or other use in this state of
10 United States, Rhode Island or POW-MIA flags.

11 (35) Motor vehicle and adaptive equipment to certain veterans. From the sale of a motor
12 vehicle and adaptive equipment to and for the use of a veteran with a service-connected loss of or
13 the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee, whether
14 service connected or not. The motor vehicle must be purchased by and especially equipped for
15 use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is granted under
16 rules or regulations that the tax administrator may prescribe.

17 (36) Textbooks. From the sale and from the storage, use, or other consumption in this
18 state of textbooks by an "educational institution", as defined in subsection (18) of this section,
19 and any educational institution within the purview of § 16-63-9(4), and used textbooks by any
20 purveyor.

21 (37) Tangible personal property and supplies used in on-site hazardous waste recycling,
22 reuse, or treatment. From the sale, storage, use, or other consumption in this state of tangible
23 personal property or supplies used or consumed in the operation of equipment, the exclusive
24 function of which is the recycling, reuse, or recovery of materials (other than precious metals, as
25 defined in subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as
26 defined in § 23-19.1-4, where the "hazardous wastes" are generated in Rhode Island solely by the
27 same taxpayer and where the personal property is located at, in, or adjacent to a generating
28 facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the director of
29 the department of environmental management certifying that the equipment and/or supplies as
30 used or consumed, qualify for the exemption under this subdivision. If any information relating to
31 secret processes or methods of manufacture, production, or treatment is disclosed to the
32 department of environmental management only to procure an order, and is a "trade secret" as
33 defined in § 28-21-10(b), it is not open to public inspection or publicly disclosed unless
34 disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

1 (38) ~~Promotional and product literature of boat manufacturers. From the sale and from~~
2 ~~the storage, use, or other consumption of promotional and product literature of boat~~
3 ~~manufacturers shipped to points outside of Rhode Island that either: (i) Accompany the product~~
4 ~~that is sold; (ii) Are shipped in bulk to out of state dealers for use in the sale of the product; or~~
5 ~~(iii) Are mailed to customers at no charge.~~

6 (39) Food items paid for by food stamps. From the sale and from the storage, use, or
7 other consumption in this state of eligible food items payment for which is properly made to the
8 retailer in the form of U.S. government food stamps issued in accordance with the Food Stamp
9 Act of 1977, 7 U.S.C. § 2011 et seq.

10 (40) Transportation charges. From the sale or hiring of motor carriers as defined in § 39-
11 12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight tariff filed
12 with the Rhode Island public utilities commission on the number of miles driven or by the
13 number of hours spent on the job.

14 (41) Trade-in value of boats. From the sale and from the storage, use, or other
15 consumption in this state of so much of the purchase price paid for a new or used boat as is
16 allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the
17 proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen
18 or damaged boat, towards the purchase of a new or used boat by the buyer.

19 (42) ~~Equipment used for research and development. From the sale and from the storage,~~
20 ~~use, or other consumption of equipment to the extent used for research and development purposes~~
21 ~~by a qualifying firm. For the purposes of this subsection, "qualifying firm" means a business for~~
22 ~~which the use of research and development equipment is an integral part of its operation and~~
23 ~~"equipment" means scientific equipment, computers, software, and related items.~~

24 (43) Coins. From the sale and from the other consumption in this state of coins having
25 numismatic or investment value in the amount of one thousand dollars (\$1,000) or greater.

26 (44) ~~Farm structure construction materials. Lumber, hardware, and other materials used~~
27 ~~in the new construction of farm structures, including production facilities such as, but not limited~~
28 ~~to: farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns, laying~~
29 ~~houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing~~
30 ~~rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and~~
31 ~~trench silos, feed storage sheds, and any other structures used in connection with commercial~~
32 ~~farming.~~

33 (45) ~~Telecommunications carrier access service. Carrier access service or~~
34 ~~telecommunications service when purchased by a telecommunications company from another~~

1 ~~telecommunications company to facilitate the provision of telecommunications service.~~

2 (46) Boats or vessels brought into the state exclusively for winter storage, maintenance,
3 repair, or sale. Notwithstanding the provisions of §§ 44-18-10, 44-18-11 and 44-18-20, the tax
4 imposed by § 44-18-20 is not applicable for the period commencing on the first day of October in
5 any year up to and including the 30th day of April next succeeding with respect to the use of any
6 boat or vessel within this state exclusively for purposes of: (i) Delivery of the vessel to a facility
7 in this state for storage, including dry storage and storage in water by means of apparatus
8 preventing ice damage to the hull, maintenance, or repair; (ii) The actual process of storage,
9 maintenance, or repair of the boat or vessel; or (iii) Storage for the purpose of selling the boat or
10 vessel.

11 (47) ~~Jewelry display product. From the sale and from the storage, use, or other~~
12 ~~consumption in this state of tangible personal property used to display any jewelry product;~~
13 ~~provided that title to the jewelry display product is transferred by the jewelry manufacturer or~~
14 ~~seller and that the jewelry display product is shipped out of state for use solely outside the state~~
15 ~~and is not returned to the jewelry manufacturer or seller.~~

16 (48) Boats or vessels generally. Notwithstanding the provisions of this chapter, the tax
17 imposed by §§ 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the storage,
18 use, or other consumption in this state of any new or used boat. The exemption provided for in
19 this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the federal
20 ten percent (10%) surcharge on luxury boats is repealed.

21 (49) Banks and regulated investment companies interstate toll-free calls. Notwithstanding
22 the provisions of this chapter, the tax imposed by this chapter does not apply to the furnishing of
23 interstate and international, toll-free terminating telecommunication service that is used directly
24 and exclusively by or for the benefit of an eligible company as defined in this subdivision;
25 provided that an eligible company employs on average during the calendar year no less than five
26 hundred (500) "full-time equivalent employees" as that term is defined in § 42-64.5-2. For
27 purposes of this section, an "eligible company" means a "regulated investment company" as that
28 term is defined in the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., or a corporation to
29 the extent the service is provided, directly or indirectly, to or on behalf of a regulated investment
30 company, an employee benefit plan, a retirement plan or a pension plan, or a state-chartered bank.

31 (50) ~~Mobile and manufactured homes generally. From the sale and from the storage, use,~~
32 ~~or other consumption in this state of mobile and/or manufactured homes as defined and subject to~~
33 ~~taxation pursuant to the provisions of chapter 44 of title 31.~~

34 (51) Manufacturing business reconstruction materials.

1 (i) From the sale and from the storage, use, or other consumption in this state of lumber,
2 hardware, and other building materials used in the reconstruction of a manufacturing business
3 facility that suffers a disaster, as defined in this subdivision, in this state. "Disaster" means any
4 occurrence, natural or otherwise, that results in the destruction of sixty percent (60%) or more of
5 an operating manufacturing business facility within this state. "Disaster" does not include any
6 damage resulting from the willful act of the owner of the manufacturing business facility.

7 (ii) Manufacturing business facility includes, but is not limited to, the structures housing
8 the production and administrative facilities.

9 (iii) In the event a manufacturer has more than one manufacturing site in this state, the
10 sixty percent (60%) provision applies to the damages suffered at that one site.

11 (iv) To the extent that the costs of the reconstruction materials are reimbursed by
12 insurance, this exemption does not apply.

13 ~~(52) Tangible personal property and supplies used in the processing or preparation of~~
14 ~~floral products and floral arrangements. From the sale, storage, use, or other consumption in this~~
15 ~~state of tangible personal property or supplies purchased by florists, garden centers, or other like~~
16 ~~producers or vendors of flowers, plants, floral products, and natural and artificial floral~~
17 ~~arrangements that are ultimately sold with flowers, plants, floral products, and natural and~~
18 ~~artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,~~
19 ~~processing, or preparation of flowers, plants, floral products, or natural and artificial floral~~
20 ~~arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral~~
21 ~~product, or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine,~~
22 ~~flower food, insecticide and fertilizers.~~

23 ~~(53) Horse food products. From the sale and from the storage, use, or other consumption~~
24 ~~in this state of horse food products purchased by a person engaged in the business of the boarding~~
25 ~~of horses.~~

26 (54) Non-motorized recreational vehicles sold to nonresidents.

27 (i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to
28 a bona fide nonresident of this state who does not register the non-motorized recreational vehicle
29 in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this
30 state or at the place of residence of the nonresident; provided that a non-motorized recreational
31 vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption
32 to its nonresidents is not exempt from the tax imposed under § 44-18-20; provided, further, that in
33 that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal to the
34 rate that would be imposed in his or her state of residence not to exceed the rate that would have

1 been imposed under § 44-18-20. Notwithstanding any other provisions of law, a licensed, non-
2 motorized recreational vehicle dealer shall add and collect the tax required under this subdivision
3 and remit the tax to the tax administrator under the provisions of chapters 18 and 19 of this title.
4 Provided, that when a Rhode Island licensed, non-motorized recreational vehicle dealer is
5 required to add and collect the sales and use tax on the sale of a non-motorized recreational
6 vehicle to a bona fide nonresident as provided in this section, the dealer in computing the tax
7 takes into consideration the law of the state of the nonresident as it relates to the trade-in of motor
8 vehicles.

9 (ii) The tax administrator, in addition to the provisions of §§ 44-19-27 and 44-19-28, may
10 require any licensed, non-motorized recreational vehicle dealer to keep records of sales to bona
11 fide nonresidents as the tax administrator deems reasonably necessary to substantiate the
12 exemption provided in this subdivision, including the affidavit of a licensed, non-motorized
13 recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the
14 holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle
15 registration or a valid out-of-state driver's license.

16 (iii) Any nonresident who registers a non-motorized recreational vehicle in this state
17 within ninety (90) days of the date of its sale to him or her is deemed to have purchased the non-
18 motorized recreational vehicle for use, storage, or other consumption in this state, and is subject
19 to, and liable for, the use tax imposed under the provisions of § 44-18-20.

20 (iv) "Non-motorized recreational vehicle" means any portable dwelling designed and
21 constructed to be used as a temporary dwelling for travel, camping, recreational, and vacation use
22 that is eligible to be registered for highway use, including, but not limited to, "pick-up coaches"
23 or "pick-up campers," "travel trailers," and "tent trailers" as those terms are defined in chapter 1
24 of title 31.

25 ~~(55) Sprinkler and fire alarm systems in existing buildings. From the sale in this state of~~
26 ~~sprinkler and fire alarm systems; emergency lighting and alarm systems; and the materials~~
27 ~~necessary and attendant to the installation of those systems that are required in buildings and~~
28 ~~occupancies existing therein in July 2003 in order to comply with any additional requirements for~~
29 ~~such buildings arising directly from the enactment of the Comprehensive Fire Safety Act of 2003~~
30 ~~and that are not required by any other provision of law or ordinance or regulation adopted~~
31 ~~pursuant to that act. The exemption provided in this subdivision shall expire on December 31,~~
32 ~~2008.~~

33 (56) Aircraft. Notwithstanding the provisions of this chapter, the tax imposed by §§ 44-
34 18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or other

1 consumption in this state of any new or used aircraft or aircraft parts.

2 (57) Renewable energy products. Notwithstanding any other provisions of Rhode Island
3 general laws, the following products shall also be exempt from sales tax: solar photovoltaic
4 modules or panels, or any module or panel that generates electricity from light; solar thermal
5 collectors, including, but not limited to, those manufactured with flat glass plates, extruded
6 plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-
7 water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if
8 specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with
9 utility power lines; and manufactured mounting racks and ballast pans for solar collector, module,
10 or panel installation. Not to include materials that could be fabricated into such racks; monitoring
11 and control equipment, if specified or supplied by a manufacturer of solar thermal, solar
12 photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such
13 systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the
14 manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage
15 tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank
16 comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is
17 not exempt from state sales tax.

18 ~~(58) Returned property. The amount charged for property returned by customers upon~~
19 ~~rescission of the contract of sale when the entire amount exclusive of handling charges paid for~~
20 ~~the property is refunded in either cash or credit, and where the property is returned within one~~
21 ~~hundred twenty (120) days from the date of delivery.~~

22 ~~(59) Dietary supplements. From the sale and from the storage, use, or other consumption~~
23 ~~of dietary supplements as defined in § 44-18-7.1(1)(v), sold on prescriptions.~~

24 (60) Blood. From the sale and from the storage, use, or other consumption of human
25 blood.

26 (61) Agricultural products for human consumption. From the sale and from the storage,
27 use, or other consumption of livestock and poultry of the kinds of products that ordinarily
28 constitute food for human consumption and of livestock of the kind the products of which
29 ordinarily constitutes fibers for human use.

30 ~~(62) Diesel emission control technology. From the sale and use of diesel retrofit~~
31 ~~technology that is required by § 31-47.3-4.~~

32 (63) Feed for certain animals used in commercial farming. From the sale of feed for
33 animals as described in subsection (61) of this section.

34 (64) Alcoholic beverages. From the sale and storage, use, or other consumption in this

1 state by a Class A licensee of alcoholic beverages, as defined in § 44-18-7.1, excluding beer and
2 malt beverages; provided, further, notwithstanding § 6-13-1 or any other general or public law to
3 the contrary, alcoholic beverages, as defined in § 44-18-7.1, shall not be subject to minimum
4 markup.

5 (65) Seeds and plants used to grow food and food ingredients. From the sale, storage, use,
6 or other consumption in this state of seeds and plants used to grow food and food ingredients as
7 defined in § 44-18-7.1(1)(i). "Seeds and plants used to grow food and food ingredients" shall not
8 include marijuana seeds or plants.

9 SECTION 2. Section 45-38.1-11 of the General Laws in Chapter 45-38.1 entitled "Health
10 And Educational Building Corporation" is hereby amended to read as follows:

11 **45-38.1-11. Revenues.**

12 (a) The corporation is authorized to fix, revise, charge, and collect rates, rents, fees, and
13 charges for the use of and for the services furnished by each project, and to contract with any
14 person, partnership, association, or corporation, or other body, public or private, in this respect.
15 The rates, rents, fees, and charges shall be fixed and adjusted in respect of the aggregate of rates,
16 rents, fees, and charges from the project so as to provide funds sufficient with other revenues, if
17 any: (1) To pay the cost of maintaining, repairing, and operating the project and each and every
18 portion of it, to the extent that the corporation has not adequately provided for the payment of the
19 cost; (2) to pay the principal of and the interest on outstanding revenue bonds of the corporation
20 issued in respect of the project as the bonds become due and payable; and (3) to create and
21 maintain reserves required or provided for in any resolution authorizing, or trust agreement
22 securing, the revenue bonds of the corporation. The rates, rents, fees, and charges are not subject
23 to supervision or regulation by any department, commission, board, body, bureau, or agency of
24 the state other than the corporation. A sufficient amount of the revenues as may be necessary to
25 pay the cost of maintenance, repair, and operation and to provide reserves and for renewals,
26 replacements, extensions, enlargements, and improvements as may be provided for in the
27 resolution authorizing the issuance of any revenue bonds of the corporation or in the trust
28 agreement securing the revenue bond, shall be set aside at regular intervals as may be provided
29 for in the resolution or trust agreement in a sinking or other similar fund which is pledged to, and
30 charged with, the payment of the principal of and the interest on the revenue bonds as the revenue
31 bonds become due, and the redemption price or the purchase price of bonds retired by call or
32 purchase as provided in the resolution or trust agreement. The pledge is valid and binding from
33 the time when the pledge is made; the rates, rents, fees, and charges and other revenue or other
34 moneys pledged and thereafter received by the corporation immediately subject to the lien of the

1 pledge without any physical delivery or further act, and the lien of the pledge valid and binding
2 against all parties having claims of any kind in tort, contract, or otherwise against the corporation,
3 irrespective of whether the parties have notice thereof. Neither the resolution nor any trust
4 agreement, nor any other agreement, nor any lease by which a pledge is created, need be filed or
5 recorded except in the records of the corporation. The use and disposition of moneys to the credit
6 of a sinking or other similar fund are subject to the provisions of the resolution authorizing the
7 issuance of the bonds or of the trust agreement. Except as may otherwise be provided in the
8 resolution or the trust agreement, the sinking or other similar fund may be a fund for all the bonds
9 issued to finance projects, as a particular institution for higher education or a particular health
10 care provider, without distinction or priority of one over another; provided, that the corporation in
11 the resolution or trust agreement may provide that the sinking or other similar fund is the fund for
12 a particular project at an institution for higher education or a health care provider and for the
13 bonds issued to finance a particular project, and may, additionally, permit and provide for the
14 issuance of bonds having a subordinate lien in respect of the security authorized in this chapter to
15 other bonds of the corporation and, in that case, the corporation may create separate sinking or
16 other similar funds in respect of the subordinate lien bonds.

17 (b) In connection with any education loan program, the corporation shall fix, revise,
18 charge, and collect fees, and is empowered to contract with any person, partnership, association,
19 or corporation, or other body, public or private, in this respect. Each agreement entered into by
20 the corporation with a participating institution or institutions for higher education shall provide
21 that the fees and other amounts payable by the institution or institutions with respect to any
22 program or programs of the corporation are sufficient: (1) to pay its or their share of the
23 administrative costs and expenses of the program; (2) to pay the principal of, the premium, if any,
24 and the interest on outstanding bonds or notes of the corporation issued in respect of the program
25 to the extent that other revenues of the corporation pledged for the payment of the bonds or notes
26 are insufficient to pay the bonds or notes as they become due and payable; (3) to create and
27 maintain reserves which may, but need not be, required or provided for in the bond resolution
28 relating to the bonds or notes of the corporation; and (4) to establish and maintain whatever
29 education loan servicing, control, or audit procedures are deemed necessary to the operations of
30 the corporation.

31 The corporation shall pledge the revenues from each program, as described in § 45-38.1-
32 9(d)(1), as security for the issue of bonds or notes relating to the program. The pledge is valid and
33 binding from the time when the pledge is made; the revenues so pledged by the corporation shall
34 immediately be subject to the lien of the pledge without any physical delivery or further act, and

1 the lien of the pledge is valid and binding against all parties having claims of any kind in tort,
2 contract, or otherwise against the corporation or any participating institution for higher education,
3 whether the parties have notice. Neither the bond resolution nor any financing statement,
4 continuation statement, or other instrument by which a pledge or security interest is created or by
5 which the corporation's interest in revenues is assigned need be filed in any public records in
6 order to perfect the security interest or lien against third parties, except in the records of the
7 corporation. The use and disposition of monies to the credit of a sinking or other similar fund are
8 subject to the provisions of the resolution authorizing the issuance of the bonds or notes or of the
9 trust agreement. Except as provided in the resolution, or the trust agreement, the sinking or other
10 similar fund shall be a fund for all revenue bonds or notes issued to finance an educational
11 program or programs at one or more participating institutions for higher education, without
12 distinction or priority of one over another; provided, that the corporation in the resolution or trust
13 agreement may provide that the sinking or other similar fund is the fund for a particular
14 educational program or programs at a participating institution or institutions for higher education
15 and for the revenue bonds or notes issued to finance a particular educational program or
16 programs, and may, additionally, permit and provide for the issuance of revenue bonds or notes
17 having a subordinate lien in respect of the security authorized in this chapter, to other revenue
18 bonds or notes of the corporation and, in that case, the corporation may create separate or other
19 similar funds in respect of the subordinate lien bonds or notes.

20 (c) All monies received by the state equal to one percentage point of the sales tax
21 pursuant to § 44-18-8; and use taxes pursuant to § 44-18-20 shall be credited to the school
22 building authority capital fund, as created by the department of education and administered by the
23 Rhode Island Educational Building Corporation, a non-business corporation constituted as a
24 public body corporate and agency of the state of Rhode Island

25 (d) In connection with the additional dedicated revenue as described in subsection (c) of
26 this section, the corporation shall be allowed to charge a two percent (2%) administrative fee, to
27 be applied to the corporation's operational costs.

28 SECTION 3. This act shall take effect upon passage.

=====
LC003155
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION

1 This act would reduce the sales and use tax from seven percent (7%) to six and one-
2 quarter percent (6.25%). This act would also eliminate certain tax exemptions, and dedicate one
3 percentage point of the sales and use tax revenue to the school building authority capital fund, as
4 created by the department of education and administered by the Rhode Island Educational
5 Building Corporation. This act would also permit the Rhode Island Educational Building
6 Corporation to charge a two percent (2%) administrative fee, to be applied to the corporation's
7 operational costs.

8 This act would take effect upon passage.

=====
LC003155
=====