

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2946

By: Wallace and Hilbert of the
House

6 and

7 Thompson and Hall of the
8 Senate

9
10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2011, Section 1357, as last amended by Section
13 1, Chapter 241, O.S.L. 2019 (68 O.S. Supp. 2020,
14 Section 1357), which relates to sales tax exemptions;
15 providing for sales tax exemption with respect to
16 certain equipment used for broadband access;
17 providing exemption administered as rebate; defining
18 term; requiring net increase in number of customers;
19 prescribing requirements related to purchase of
20 equipment; prescribing maximum total rebate amounts
21 per year; providing for reserved rebate pool amounts
22 based upon county population density; providing for
23 computation of rebate amounts; providing for
24 allocation formula with respect to rebate claims
filed for certain period of time; providing for
implementation of allocation formula based on
recommendations of Rural Broadband Expansion Council;
providing for termination of exemption based upon
absence of formula; prescribing procedures with
respect to filing of claims; requiring forms;
requiring documentation; requiring Oklahoma
Department of Commerce to prepare report; prescribing
content of report; requiring filing of report with
Governor, Speaker of the Oklahoma House of
Representatives and President Pro Tempore of the
Oklahoma State Senate; requiring website posting;

1 providing for codification; providing an effective
2 date; and declaring an emergency.

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5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1357, as
7 last amended by Section 1, Chapter 241, O.S.L. 2019 (68 O.S. Supp.
8 2020, Section 1357), is amended to read as follows:

9 Section 1357. Exemptions - General.

10 There are hereby specifically exempted from the tax levied by
11 the Oklahoma Sales Tax Code:

12 1. Transportation of school pupils to and from elementary
13 schools or high schools in motor or other vehicles;

14 2. Transportation of persons where the fare of each person does
15 not exceed One Dollar (\$1.00), or local transportation of persons
16 within the corporate limits of a municipality except by taxicabs;

17 3. Sales for resale to persons engaged in the business of
18 reselling the articles purchased, whether within or without the
19 state, provided that such sales to residents of this state are made
20 to persons to whom sales tax permits have been issued as provided in
21 the Oklahoma Sales Tax Code. This exemption shall not apply to the
22 sales of articles made to persons holding permits when such persons
23 purchase items for their use and which they are not regularly
24 engaged in the business of reselling; neither shall this exemption

1 apply to sales of tangible personal property to peddlers, solicitors
2 and other salespersons who do not have an established place of
3 business and a sales tax permit. The exemption provided by this
4 paragraph shall apply to sales of motor fuel or diesel fuel to a
5 Group Five vendor, but the use of such motor fuel or diesel fuel by
6 the Group Five vendor shall not be exempt from the tax levied by the
7 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
8 is exempt from sales tax when the motor fuel is for shipment outside
9 this state and consumed by a common carrier by rail in the conduct
10 of its business. The sales tax shall apply to the purchase of motor
11 fuel or diesel fuel in Oklahoma by a common carrier by rail when
12 such motor fuel is purchased for fueling, within this state, of any
13 locomotive or other motorized flanged wheel equipment;

14 4. Sales of advertising space in newspapers and periodicals;

15 5. Sales of programs relating to sporting and entertainment
16 events, and sales of advertising on billboards (including signage,
17 posters, panels, marquees, or on other similar surfaces, whether
18 indoors or outdoors) or in programs relating to sporting and
19 entertainment events, and sales of any advertising, to be displayed
20 at or in connection with a sporting event, via the Internet,
21 electronic display devices, or through public address or broadcast
22 systems. The exemption authorized by this paragraph shall be
23 effective for all sales made on or after January 1, 2001;

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1 6. Sales of any advertising, other than the advertising
2 described by paragraph 5 of this section, via the Internet,
3 electronic display devices, or through the electronic media,
4 including radio, public address or broadcast systems, television
5 (whether through closed circuit broadcasting systems or otherwise),
6 and cable and satellite television, and the servicing of any
7 advertising devices;

8 7. Eggs, feed, supplies, machinery and equipment purchased by
9 persons regularly engaged in the business of raising worms, fish,
10 any insect or any other form of terrestrial or aquatic animal life
11 and used for the purpose of raising same for marketing. This
12 exemption shall only be granted and extended to the purchaser when
13 the items are to be used and in fact are used in the raising of
14 animal life as set out above. Each purchaser shall certify, in
15 writing, on the invoice or sales ticket retained by the vendor that
16 the purchaser is regularly engaged in the business of raising such
17 animal life and that the items purchased will be used only in such
18 business. The vendor shall certify to the Oklahoma Tax Commission
19 that the price of the items has been reduced to grant the full
20 benefit of the exemption. Violation hereof by the purchaser or
21 vendor shall be a misdemeanor;

22 8. Sale of natural or artificial gas and electricity, and
23 associated delivery or transmission services, when sold exclusively
24 for residential use. Provided, this exemption shall not apply to

1 any sales tax levied by a city or town, or a county, or any other
2 jurisdiction in this state;

3 9. In addition to the exemptions authorized by Section 1357.6
4 of this title, sales of drugs sold pursuant to a prescription
5 written for the treatment of human beings by a person licensed to
6 prescribe the drugs, and sales of insulin and medical oxygen.
7 Provided, this exemption shall not apply to over-the-counter drugs;

8 10. Transfers of title or possession of empty, partially
9 filled, or filled returnable oil and chemical drums to any person
10 who is not regularly engaged in the business of selling, reselling
11 or otherwise transferring empty, partially filled, or filled
12 returnable oil drums;

13 11. Sales of one-way utensils, paper napkins, paper cups,
14 disposable hot containers and other one-way carry out materials to a
15 vendor of meals or beverages;

16 12. Sales of food or food products for home consumption which
17 are purchased in whole or in part with coupons issued pursuant to
18 the federal food stamp program as authorized by Sections 2011
19 through 2029 of Title 7 of the United States Code, as to that
20 portion purchased with such coupons. The exemption provided for
21 such sales shall be inapplicable to such sales upon the effective
22 date of any federal law that removes the requirement of the
23 exemption as a condition for participation by the state in the
24 federal food stamp program;

1 13. Sales of food or food products, or any equipment or
2 supplies used in the preparation of the food or food products to or
3 by an organization which:

4 a. is exempt from taxation pursuant to the provisions of
5 Section 501(c)(3) of the Internal Revenue Code, 26
6 U.S.C., Section 501(c)(3), and which provides and
7 delivers prepared meals for home consumption to
8 elderly or homebound persons as part of a program
9 commonly known as "Meals on Wheels" or "Mobile Meals",
10 or

11 b. is exempt from taxation pursuant to the provisions of
12 Section 501(c)(3) of the Internal Revenue Code, 26
13 U.S.C., Section 501(c)(3), and which receives federal
14 funding pursuant to the Older Americans Act of 1965,
15 as amended, for the purpose of providing nutrition
16 programs for the care and benefit of elderly persons;

17 14. a. Sales of tangible personal property or services to or
18 by organizations which are exempt from taxation
19 pursuant to the provisions of Section 501(c)(3) of the
20 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
21 and:

22 (1) are primarily involved in the collection and
23 distribution of food and other household products
24 to other organizations that facilitate the

1 distribution of such products to the needy and
2 such distributee organizations are exempt from
3 taxation pursuant to the provisions of Section
4 501(c) (3) of the Internal Revenue Code, 26
5 U.S.C., Section 501(c) (3), or

6 (2) facilitate the distribution of such products to
7 the needy.

8 b. Sales made in the course of business for profit or
9 savings, competing with other persons engaged in the
10 same or similar business shall not be exempt under
11 this paragraph;

12 15. Sales of tangible personal property or services to
13 children's homes which are located on church-owned property and are
14 operated by organizations exempt from taxation pursuant to the
15 provisions of the Internal Revenue Code, 26 U.S.C., Section
16 501(c) (3);

17 16. Sales of computers, data processing equipment, related
18 peripherals and telephone, telegraph or telecommunications service
19 and equipment for use in a qualified aircraft maintenance or
20 manufacturing facility. For purposes of this paragraph, "qualified
21 aircraft maintenance or manufacturing facility" means a new or
22 expanding facility primarily engaged in aircraft repair, building or
23 rebuilding whether or not on a factory basis, whose total cost of
24 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)

1 and which employs at least two hundred fifty (250) new full-time-
2 equivalent employees, as certified by the Oklahoma Employment
3 Security Commission, upon completion of the facility. In order to
4 qualify for the exemption provided for by this paragraph, the cost
5 of the items purchased by the qualified aircraft maintenance or
6 manufacturing facility shall equal or exceed the sum of Two Million
7 Dollars (\$2,000,000.00);

8 17. Sales of tangible personal property consumed or
9 incorporated in the construction or expansion of a qualified
10 aircraft maintenance or manufacturing facility as defined in
11 paragraph 16 of this section. For purposes of this paragraph, sales
12 made to a contractor or subcontractor that has previously entered
13 into a contractual relationship with a qualified aircraft
14 maintenance or manufacturing facility for construction or expansion
15 of such a facility shall be considered sales made to a qualified
16 aircraft maintenance or manufacturing facility;

17 18. Sales of the following telecommunications services:

18 a. Interstate and International "800 service". "800
19 service" means a "telecommunications service" that
20 allows a caller to dial a toll-free number without
21 incurring a charge for the call. The service is
22 typically marketed under the name "800", "855", "866",
23 "877", and "888" toll-free calling, and any subsequent
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1 numbers designated by the Federal Communications
2 Commission, or

3 b. Interstate and International "900 service". "900
4 service" means an inbound toll "telecommunications
5 service" purchased by a subscriber that allows the
6 subscriber's customers to call in to the subscriber's
7 prerecorded announcement or live service. "900
8 service" does not include the charge for: collection
9 services provided by the seller of the
10 "telecommunications services" to the subscriber, or
11 service or product sold by the subscriber to the
12 subscriber's customer. The service is typically
13 marketed under the name "900" service, and any
14 subsequent numbers designated by the Federal
15 Communications Commission,

16 c. Interstate and International "private communications
17 service". "Private communications service" means a
18 "telecommunications service" that entitles the
19 customer to exclusive or priority use of a
20 communications channel or group of channels between or
21 among termination points, regardless of the manner in
22 which such channel or channels are connected, and
23 includes switching capacity, extension lines,
24 stations, and any other associated services that are

1 provided in connection with the use of such channel or
2 channels,

3 d. "Value-added nonvoice data service". "Value-added
4 nonvoice data service" means a service that otherwise
5 meets the definition of "telecommunications services"
6 in which computer processing applications are used to
7 act on the form, content, code, or protocol of the
8 information or data primarily for a purpose other than
9 transmission, conveyance or routing,

10 e. Interstate and International telecommunications
11 service which is:

12 (1) rendered by a company for private use within its
13 organization, or

14 (2) used, allocated, or distributed by a company to
15 its affiliated group,

16 f. Regulatory assessments and charges, including charges
17 to fund the Oklahoma Universal Service Fund, the
18 Oklahoma Lifeline Fund and the Oklahoma High Cost
19 Fund, and

20 g. Telecommunications nonrecurring charges, including but
21 not limited to the installation, connection, change or
22 initiation of telecommunications services which are
23 not associated with a retail consumer sale;

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1 19. Sales of railroad track spikes manufactured and sold for
2 use in this state in the construction or repair of railroad tracks,
3 switches, sidings and turnouts;

4 20. Sales of aircraft and aircraft parts provided such sales
5 occur at a qualified aircraft maintenance facility. As used in this
6 paragraph, "qualified aircraft maintenance facility" means a
7 facility operated by an air common carrier, including one or more
8 component overhaul support buildings or structures in an area owned,
9 leased or controlled by the air common carrier, at which there were
10 employed at least two thousand (2,000) full-time-equivalent
11 employees in the preceding year as certified by the Oklahoma
12 Employment Security Commission and which is primarily related to the
13 fabrication, repair, alteration, modification, refurbishing,
14 maintenance, building or rebuilding of commercial aircraft or
15 aircraft parts used in air common carriage. For purposes of this
16 paragraph, "air common carrier" shall also include members of an
17 affiliated group as defined by Section 1504 of the Internal Revenue
18 Code, 26 U.S.C., Section 1504. Beginning July 1, 2012, sales of
19 machinery, tools, supplies, equipment and related tangible personal
20 property and services used or consumed in the repair, remodeling or
21 maintenance of aircraft, aircraft engines, or aircraft component
22 parts which occur at a qualified aircraft maintenance facility;

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1 21. Sales of machinery and equipment purchased and used by
2 persons and establishments primarily engaged in computer services
3 and data processing:

4 a. as defined under Industrial Group Numbers 7372 and
5 7373 of the Standard Industrial Classification (SIC)
6 Manual, latest version, which derive at least fifty
7 percent (50%) of their annual gross revenues from the
8 sale of a product or service to an out-of-state buyer
9 or consumer, and

10 b. as defined under Industrial Group Number 7374 of the
11 SIC Manual, latest version, which derive at least
12 eighty percent (80%) of their annual gross revenues
13 from the sale of a product or service to an out-of-
14 state buyer or consumer.

15 Eligibility for the exemption set out in this paragraph shall be
16 established, subject to review by the Tax Commission, by annually
17 filing an affidavit with the Tax Commission stating that the
18 facility so qualifies and such information as required by the Tax
19 Commission. For purposes of determining whether annual gross
20 revenues are derived from sales to out-of-state buyers or consumers,
21 all sales to the federal government shall be considered to be to an
22 out-of-state buyer or consumer;

23 22. Sales of prosthetic devices to an individual for use by
24 such individual. For purposes of this paragraph, "prosthetic

1 device" shall have the same meaning as provided in Section 1357.6 of
2 this title, but shall not include corrective eye glasses, contact
3 lenses or hearing aids;

4 23. Sales of tangible personal property or services to a motion
5 picture or television production company to be used or consumed in
6 connection with an eligible production. For purposes of this
7 paragraph, "eligible production" means a documentary, special, music
8 video, or a television commercial or television program that will
9 serve as a pilot for or be a segment of an ongoing dramatic or
10 situation comedy series filmed or taped for network or national or
11 regional syndication or a feature-length motion picture intended for
12 theatrical release or for network or national or regional
13 syndication or broadcast. The provisions of this paragraph shall
14 apply to sales occurring on or after July 1, 1996. In order to
15 qualify for the exemption, the motion picture or television
16 production company shall file any documentation and information
17 required to be submitted pursuant to rules promulgated by the Tax
18 Commission;

19 24. Sales of diesel fuel sold for consumption by commercial
20 vessels, barges and other commercial watercraft;

21 25. Sales of tangible personal property or services to tax-
22 exempt independent nonprofit biomedical research foundations that
23 provide educational programs for Oklahoma science students and
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1 teachers and to tax-exempt independent nonprofit community blood
2 banks headquartered in this state;

3 26. Effective May 6, 1992, sales of wireless telecommunications
4 equipment to a vendor who subsequently transfers the equipment at no
5 charge or for a discounted charge to a consumer as part of a
6 promotional package or as an inducement to commence or continue a
7 contract for wireless telecommunications services;

8 27. Effective January 1, 1991, leases of rail transportation
9 cars to haul coal to coal-fired plants located in this state which
10 generate electric power;

11 28. Beginning July 1, 2005, sales of aircraft engine repairs,
12 modification, and replacement parts, sales of aircraft frame repairs
13 and modification, aircraft interior modification, and paint, and
14 sales of services employed in the repair, modification and
15 replacement of parts of aircraft engines, aircraft frame and
16 interior repair and modification, and paint;

17 29. Sales of materials and supplies to the owner or operator of
18 a ship, motor vessel or barge that is used in interstate or
19 international commerce if the materials and supplies:

- 20 a. are loaded on the ship, motor vessel or barge and used
21 in the maintenance and operation of the ship, motor
22 vessel or barge, or
23 b. enter into and become component parts of the ship,
24 motor vessel or barge;

1 30. Sales of tangible personal property made at estate sales at
2 which such property is offered for sale on the premises of the
3 former residence of the decedent by a person who is not required to
4 be licensed pursuant to the Transient Merchant Licensing Act, or who
5 is not otherwise required to obtain a sales tax permit for the sale
6 of such property pursuant to the provisions of Section 1364 of this
7 title; provided:

- 8 a. such sale or event may not be held for a period
9 exceeding three (3) consecutive days,
- 10 b. the sale must be conducted within six (6) months of
11 the date of death of the decedent, and
- 12 c. the exemption allowed by this paragraph shall not be
13 allowed for property that was not part of the
14 decedent's estate;

15 31. Beginning January 1, 2004, sales of electricity and
16 associated delivery and transmission services, when sold exclusively
17 for use by an oil and gas operator for reservoir dewatering projects
18 and associated operations commencing on or after July 1, 2003, in
19 which the initial water-to-oil ratio is greater than or equal to
20 five-to-one water-to-oil, and such oil and gas development projects
21 have been classified by the Corporation Commission as a reservoir
22 dewatering unit;

23 32. Sales of prewritten computer software that is delivered
24 electronically. For purposes of this paragraph, "delivered

1 electronically" means delivered to the purchaser by means other than
2 tangible storage media;

3 33. Sales of modular dwelling units when built at a production
4 facility and moved in whole or in parts, to be assembled on-site,
5 and permanently affixed to the real property and used for
6 residential or commercial purposes. The exemption provided by this
7 paragraph shall equal forty-five percent (45%) of the total sales
8 price of the modular dwelling unit. For purposes of this paragraph,
9 "modular dwelling unit" means a structure that is not subject to the
10 motor vehicle excise tax imposed pursuant to Section 2103 of this
11 title;

12 34. Sales of tangible personal property or services to persons
13 who are residents of Oklahoma and have been honorably discharged
14 from active service in any branch of the Armed Forces of the United
15 States or Oklahoma National Guard and who have been certified by the
16 United States Department of Veterans Affairs or its successor to be
17 in receipt of disability compensation at the one-hundred-percent
18 rate and the disability shall be permanent and have been sustained
19 through military action or accident or resulting from disease
20 contracted while in such active service or the surviving spouse of
21 such person if the person is deceased and the spouse has not
22 remarried; provided, sales for the benefit of the person to a spouse
23 of the eligible person or to a member of the household in which the
24 eligible person resides and who is authorized to make purchases on

1 the person's behalf, when such eligible person is not present at the
2 sale, shall also be exempt for purposes of this paragraph. The
3 Oklahoma Tax Commission shall issue a separate exemption card to a
4 spouse of an eligible person or to a member of the household in
5 which the eligible person resides who is authorized to make
6 purchases on the person's behalf, if requested by the eligible
7 person. Sales qualifying for the exemption authorized by this
8 paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00)
9 per year per individual while the disabled veteran is living. Sales
10 qualifying for the exemption authorized by this paragraph shall not
11 exceed One Thousand Dollars (\$1,000.00) per year for an unremarried
12 surviving spouse. Upon request of the Tax Commission, a person
13 asserting or claiming the exemption authorized by this paragraph
14 shall provide a statement, executed under oath, that the total sales
15 amounts for which the exemption is applicable have not exceeded
16 Twenty-five Thousand Dollars (\$25,000.00) per year per living
17 disabled veteran or One Thousand Dollars (\$1,000.00) per year for an
18 unremarried surviving spouse. If the amount of such exempt sales
19 exceeds such amount, the sales tax in excess of the authorized
20 amount shall be treated as a direct sales tax liability and may be
21 recovered by the Tax Commission in the same manner provided by law
22 for other taxes, including penalty and interest;

23 35. Sales of electricity to the operator, specifically
24 designated by the Corporation Commission, of a spacing unit or lease

1 from which oil is produced or attempted to be produced using
2 enhanced recovery methods, including, but not limited to, increased
3 pressure in a producing formation through the use of water or
4 saltwater if the electrical usage is associated with and necessary
5 for the operation of equipment required to inject or circulate
6 fluids in a producing formation for the purpose of forcing oil or
7 petroleum into a wellbore for eventual recovery and production from
8 the wellhead. In order to be eligible for the sales tax exemption
9 authorized by this paragraph, the total content of oil recovered
10 after the use of enhanced recovery methods shall not exceed one
11 percent (1%) by volume. The exemption authorized by this paragraph
12 shall be applicable only to the state sales tax rate and shall not
13 be applicable to any county or municipal sales tax rate;

14 36. Sales of intrastate charter and tour bus transportation.
15 As used in this paragraph, "intrastate charter and tour bus
16 transportation" means the transportation of persons from one
17 location in this state to another location in this state in a motor
18 vehicle which has been constructed in such a manner that it may
19 lawfully carry more than eighteen persons, and which is ordinarily
20 used or rented to carry persons for compensation. Provided, this
21 exemption shall not apply to regularly scheduled bus transportation
22 for the general public;

23 37. Sales of vitamins, minerals and dietary supplements by a
24 licensed chiropractor to a person who is the patient of such

1 chiropractor at the physical location where the chiropractor
2 provides chiropractic care or services to such patient. The
3 provisions of this paragraph shall not be applicable to any drug,
4 medicine or substance for which a prescription by a licensed
5 physician is required;

6 38. Sales of goods, wares, merchandise, tangible personal
7 property, machinery and equipment to a web search portal located in
8 this state which derives at least eighty percent (80%) of its annual
9 gross revenue from the sale of a product or service to an out-of-
10 state buyer or consumer. For purposes of this paragraph, "web
11 search portal" means an establishment classified under NAICS code
12 519130 which operates websites that use a search engine to generate
13 and maintain extensive databases of Internet addresses and content
14 in an easily searchable format;

15 39. Sales of tangible personal property consumed or
16 incorporated in the construction or expansion of a facility for a
17 corporation organized under Section 437 et seq. of Title 18 of the
18 Oklahoma Statutes as a rural electric cooperative. For purposes of
19 this paragraph, sales made to a contractor or subcontractor that has
20 previously entered into a contractual relationship with a rural
21 electric cooperative for construction or expansion of a facility
22 shall be considered sales made to a rural electric cooperative;

23 40. Sales of tangible personal property or services to a
24 business primarily engaged in the repair of consumer electronic

1 goods, including, but not limited to, cell phones, compact disc
2 players, personal computers, MP3 players, digital devices for the
3 storage and retrieval of information through hard-wired or wireless
4 computer or Internet connections, if the devices are sold to the
5 business by the original manufacturer of such devices and the
6 devices are repaired, refitted or refurbished for sale by the entity
7 qualifying for the exemption authorized by this paragraph directly
8 to retail consumers or if the devices are sold to another business
9 entity for sale to retail consumers;

10 41. On or after July 1, 2019, and prior to July 1, 2024, sales
11 or leases of rolling stock when sold or leased by the manufacturer,
12 regardless of whether the purchaser is a public services corporation
13 engaged in business as a common carrier of property or passengers by
14 railway, for use or consumption by a common carrier directly in the
15 rendition of public service. For purposes of this paragraph,
16 "rolling stock" means locomotives, autocars and railroad cars and
17 "sales or leases" includes railroad car maintenance and retrofitting
18 of railroad cars for their further use only on the railways; ~~and~~

19 42. Sales of gold, silver, platinum, palladium or other bullion
20 items such as coins and bars and legal tender of any nation, which
21 legal tender is sold according to its value as precious metal or as
22 an investment. As used in the paragraph, "bullion" means any
23 precious metal, including, but not limited to, gold, silver,
24 platinum and palladium, that is in such a state or condition that

1 its value depends upon its precious metal content and not its form.
2 The exemption authorized by this paragraph shall not apply to
3 fabricated metals that have been processed or manufactured for
4 artistic use or as jewelry; and

5 43. Subject to the other requirements of this paragraph and the
6 requirements of Section 2 of this act, sale, lease, rental, storage,
7 use or other consumption of qualifying broadband equipment by
8 providers of Internet service or subsidiaries if the property is
9 directly used or consumed by the provider or subsidiary in or during
10 the distribution of broadband Internet service.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1357.21 of Title 68, unless
13 there is created a duplication in numbering, reads as follows:

14 A. The exemption authorized by the provisions of paragraph 43
15 of Section 1357 of Title 68 of the Oklahoma Statutes shall be
16 administered as a rebate.

17 B. No claim for a rebate shall be approved unless the equipment
18 was purchased in order to establish or expand broadband services in
19 underserved or unserved areas. As used in this subsection and for
20 purposes of the exemption authorized by paragraph 43 of Section 1357
21 of Title 68 of the Oklahoma Statutes, "broadband", "underserved" and
22 "unserved" shall mean those services and areas as defined in Section
23 139.102 of Title 17 of the Oklahoma Statutes.

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1 C. No claim for rebate shall be approved unless the claimant
2 establishes that as a result of the equipment purchase there has
3 been net growth in the number of potential customers served in
4 underserved or unserved areas.

5 D. In order to qualify for rebate payments during the fiscal
6 year beginning July 1, 2022, equipment or other items qualifying for
7 the exemption authorized by paragraph 43 of Section 1357 of Title 68
8 of the Oklahoma Statutes must be purchased and placed in service
9 between January 1, 2022, and December 31, 2023. Claims for rebates
10 of sales tax or use tax paid for such equipment purchased in
11 calendar year 2022 shall be filed with the Oklahoma Tax Commission
12 not later than September 1, 2023, and claims for rebates for sales
13 or use tax paid for such equipment purchased in calendar year 2023
14 shall be filed with the Oklahoma Tax Commission not later than
15 September 1, 2024. All claims shall be processed by the Tax
16 Commission not later than March 1, 2025.

17 E. Qualifying purchases do not include supporting or ancillary
18 functions, such as office operations, field operations, marketing,
19 transportation, warehousing, data storage, or similar operations
20 that do not directly result in the distribution of broadband
21 Internet service. Property directly used or consumed in or during
22 the provision, creation, or production of a data processing service
23 or information service, or property the provider grants, sells, or
24

1 leases to the customer for use within the home or establishment
2 receiving broadband is not eligible for a rebate under this section.

3 F. The total amount of rebates that may be paid shall not
4 exceed Forty-two Million Dollars (\$42,000,000.00) with Thirty-one
5 Million Five Hundred Thousand Dollars (\$31,500,000.00) of the total
6 reserved for eligible projects serving counties having a population
7 density of fewer than one hundred persons per square mile and Ten
8 Million Five Hundred Thousand Dollars (\$10,500,000.00) of the total
9 reserved for eligible projects serving counties having a population
10 density of one hundred or more persons per square mile.

11 G. The amount of rebate paid to each claimant shall be computed
12 by dividing the applicable total rebate pool amount by the dollar
13 amount of claims timely received by the Tax Commission with respect
14 to each fiscal year, and paying in full the amount of the claims
15 submitted if the amount of claims are equal to, or less than, the
16 total rebate pool, or a pro rata share if the total amount of claims
17 submitted exceed the rebate pool.

18 H. For the fiscal year beginning July 1, 2023, and all
19 subsequent fiscal years, the total amount of rebate that may be paid
20 shall not exceed Forty-two Million Dollars (\$42,000,000.00), but the
21 allocation of this amount shall be made using an incentive award
22 formula as enacted into law by the Legislature after recommendation
23 by the Rural Broadband Expansion Council. If an incentive award
24 formula is not enacted into law as of January 1, 2023, then the

1 sales tax exemption otherwise authorized pursuant to paragraph 43 of
2 Section 1357 of Title 68 of the Oklahoma Statutes shall cease to be
3 effective as law and the exemption shall not be applicable to any
4 equipment purchase made on or after January 1, 2024.

5 I. Claims for rebate shall be on such forms as the Oklahoma Tax
6 Commission may prescribe for such purpose and shall contain any
7 required information or supporting documentation the Commission
8 requires to verify eligibility for the rebate payment.

9 J. The Oklahoma Department of Commerce and the Rural Broadband
10 Expansion Council shall use information provided by the Oklahoma Tax
11 Commission to prepare a report to identify the qualifying rural
12 broadband projects completed with the equipment purchased together
13 with the location of the equipment and the geographic areas served
14 as a result of the equipment purchases, including the total number
15 of potential new customers receiving qualifying broadband services
16 resulting from the project. The report shall not identify any
17 entity by name that purchased equipment.

18 K. The report shall be filed not later than April 1, 2025, with
19 respect to rebates paid for equipment purchases made during calendar
20 years 2022 and 2023. The Oklahoma Tax Commission shall make
21 information available as required by subsection J of this section as
22 claims are completed to assist with the timely preparation of the
23 report.

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1 L. The report shall be filed with the Governor, the Speaker of
2 the Oklahoma House of Representatives and the President Pro Tempore
3 of the Oklahoma State Senate and posted on the Rural Broadband
4 Expansion Council website maintained by the Oklahoma Department of
5 Commerce.

6 SECTION 3. This act shall become effective July 1, 2021.

7 SECTION 4. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 58-1-8336 JM 05/17/21

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