

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1305
Page 37 Section Lines
Of the printed Bill
14 1/2
Of the Engrossed Bill

By inserting the following language:

(INSERT ATTACHED);

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted:

Amendment submitted by: Todd Russ

Reading Clerk

1 "SECTION 1. AMENDATORY 68 O.S. 2021, Section 1357, is
2 amended to read as follows:

3 Section 1357. Exemptions - General.

4 There are hereby specifically exempted from the tax levied by
5 the Oklahoma Sales Tax Code:

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

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

11 3. Sales for resale to persons engaged in the business of
12 reselling the articles purchased, whether within or without the
13 state, provided that such sales to residents of this state are made
14 to persons to whom sales tax permits have been issued as provided in
15 the Oklahoma Sales Tax Code. This exemption shall not apply to the
16 sales of articles made to persons holding permits when such persons
17 purchase items for their use and which they are not regularly
18 engaged in the business of reselling; neither shall this exemption
19 apply to sales of tangible personal property to peddlers, solicitors
20 and other salespersons who do not have an established place of
21 business and a sales tax permit. The exemption provided by this
22 paragraph shall apply to sales of motor fuel or diesel fuel to a
23 Group Five vendor, but the use of such motor fuel or diesel fuel by
24 the Group Five vendor shall not be exempt from the tax levied by the

1 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
2 is exempt from sales tax when the motor fuel is for shipment outside
3 this state and consumed by a common carrier by rail in the conduct
4 of its business. The sales tax shall apply to the purchase of motor
5 fuel or diesel fuel in Oklahoma by a common carrier by rail when
6 such motor fuel is purchased for fueling, within this state, of any
7 locomotive or other motorized flanged wheel equipment;

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

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

18 6. Sales of any advertising, other than the advertising
19 described by paragraph 5 of this section, via the Internet,
20 electronic display devices, or through the electronic media,
21 including radio, public address or broadcast systems, television
22 (whether through closed circuit broadcasting systems or otherwise),
23 and cable and satellite television, and the servicing of any
24 advertising devices;

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

15 8. Sale of natural or artificial gas and electricity, and
16 associated delivery or transmission services, when sold exclusively
17 for residential use. Provided, this exemption shall not apply to
18 any sales tax levied by a city or town, or a county, or any other
19 jurisdiction in this state;

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

1 10. Transfers of title or possession of empty, partially
2 filled, or filled returnable oil and chemical drums to any person
3 who is not regularly engaged in the business of selling, reselling
4 or otherwise transferring empty, partially filled, or filled
5 returnable oil drums;

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

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

18 13. Sales of food or food products, or any equipment or
19 supplies used in the preparation of the food or food products to or
20 by an organization which:

21 a. is exempt from taxation pursuant to the provisions of
22 Section 501(c)(3) of the Internal Revenue Code, 26
23 U.S.C., Section 501(c)(3), and which provides and
24 delivers prepared meals for home consumption to

1 elderly or homebound persons as part of a program
2 commonly known as "Meals on Wheels" or "Mobile Meals",
3 or

4 b. 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 receives federal
7 funding pursuant to the Older Americans Act of 1965,
8 as amended, for the purpose of providing nutrition
9 programs for the care and benefit of elderly persons;

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

- 15 (1) are primarily involved in the collection and
16 distribution of food and other household products
17 to other organizations that facilitate the
18 distribution of such products to the needy and
19 such distributee organizations are exempt from
20 taxation pursuant to the provisions of Section
21 501(c)(3) of the Internal Revenue Code, 26
22 U.S.C., Section 501(c)(3), or
23 (2) facilitate the distribution of such products to
24 the needy.

1 b. Sales made in the course of business for profit or
2 savings, competing with other persons engaged in the
3 same or similar business shall not be exempt under
4 this paragraph;

5 15. Sales of tangible personal property or services to
6 children's homes which are located on church-owned property and are
7 operated by organizations exempt from taxation pursuant to the
8 provisions of the Internal Revenue Code, 26 U.S.C., Section
9 501(c) (3);

10 16. Sales of computers, data processing equipment, related
11 peripherals and telephone, telegraph or telecommunications service
12 and equipment for use in a qualified aircraft maintenance or
13 manufacturing facility. For purposes of this paragraph, "qualified
14 aircraft maintenance or manufacturing facility" means a new or
15 expanding facility primarily engaged in aircraft repair, building or
16 rebuilding whether or not on a factory basis, whose total cost of
17 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
18 and which employs at least two hundred fifty (250) new full-time-
19 equivalent employees, as certified by the Oklahoma Employment
20 Security Commission, upon completion of the facility. In order to
21 qualify for the exemption provided for by this paragraph, the cost
22 of the items purchased by the qualified aircraft maintenance or
23 manufacturing facility shall equal or exceed the sum of Two Million
24 Dollars (\$2,000,000.00);

1 17. Sales of tangible personal property consumed or
2 incorporated in the construction or expansion of a qualified
3 aircraft maintenance or manufacturing facility as defined in
4 paragraph 16 of this section. For purposes of this paragraph, sales
5 made to a contractor or subcontractor that has previously entered
6 into a contractual relationship with a qualified aircraft
7 maintenance or manufacturing facility for construction or expansion
8 of such a facility shall be considered sales made to a qualified
9 aircraft maintenance or manufacturing facility;

10 18. Sales of the following telecommunications services:

- 11 a. Interstate and International "800 service". "800
12 service" means a "telecommunications service" that
13 allows a caller to dial a toll-free number without
14 incurring a charge for the call. The service is
15 typically marketed under the name "800", "855", "866",
16 "877", and "888" toll-free calling, and any subsequent
17 numbers designated by the Federal Communications
18 Commission, or
- 19 b. Interstate and International "900 service". "900
20 service" means an inbound toll "telecommunications
21 service" purchased by a subscriber that allows the
22 subscriber's customers to call in to the subscriber's
23 prerecorded announcement or live service. "900
24 service" does not include the charge for: collection

1 services provided by the seller of the
2 "telecommunications services" to the subscriber, or
3 service or product sold by the subscriber to the
4 subscriber's customer. The service is typically
5 marketed under the name "900" service, and any
6 subsequent numbers designated by the Federal
7 Communications Commission,

8 c. Interstate and International "private communications
9 service". "Private communications service" means a
10 "telecommunications service" that entitles the
11 customer to exclusive or priority use of a
12 communications channel or group of channels between or
13 among termination points, regardless of the manner in
14 which such channel or channels are connected, and
15 includes switching capacity, extension lines,
16 stations, and any other associated services that are
17 provided in connection with the use of such channel or
18 channels,

19 d. "Value-added nonvoice data service". "Value-added
20 nonvoice data service" means a service that otherwise
21 meets the definition of "telecommunications services"
22 in which computer processing applications are used to
23 act on the form, content, code, or protocol of the
24

1 information or data primarily for a purpose other than
2 transmission, conveyance or routing,

3 e. Interstate and International telecommunications
4 service which is:

5 (1) rendered by a company for private use within its
6 organization, or

7 (2) used, allocated, or distributed by a company to
8 its affiliated group,

9 f. Regulatory assessments and charges, including charges
10 to fund the Oklahoma Universal Service Fund, the
11 Oklahoma Lifeline Fund and the Oklahoma High Cost
12 Fund, and

13 g. Telecommunications nonrecurring charges, including but
14 not limited to the installation, connection, change or
15 initiation of telecommunications services which are
16 not associated with a retail consumer sale;

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

20 20. Sales of aircraft and aircraft parts provided such sales
21 occur at a qualified aircraft maintenance facility. As used in this
22 paragraph, "qualified aircraft maintenance facility" means a
23 facility operated by an air common carrier, including one or more
24 component overhaul support buildings or structures in an area owned,

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

15 21. Sales of machinery and equipment purchased and used by
16 persons and establishments primarily engaged in computer services
17 and data processing:

18 a. as defined under Industrial Group Numbers 7372 and
19 7373 of the Standard Industrial Classification (SIC)
20 Manual, latest version, which derive at least fifty
21 percent (50%) of their annual gross revenues from the
22 sale of a product or service to an out-of-state buyer
23 or consumer, and
24

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

6 Eligibility for the exemption set out in this paragraph shall be
7 established, subject to review by the Tax Commission, by annually
8 filing an affidavit with the Tax Commission stating that the
9 facility so qualifies and such information as required by the Tax
10 Commission. For purposes of determining whether annual gross
11 revenues are derived from sales to out-of-state buyers or consumers,
12 all sales to the federal government shall be considered to be to an
13 out-of-state buyer or consumer;

14 22. Sales of prosthetic devices to an individual for use by
15 such individual. For purposes of this paragraph, "prosthetic
16 device" shall have the same meaning as provided in Section 1357.6 of
17 this title and shall include hearing aids purchased from an
18 audiologist or hearing aid dealer or fitter who is licensed by the
19 state as required by law, but shall not include corrective eye
20 glasses, ~~or~~ or contact lenses ~~or hearing aids~~;

21 23. Sales of tangible personal property or services to a motion
22 picture or television production company to be used or consumed in
23 connection with an eligible production. For purposes of this
24 paragraph, "eligible production" means a documentary, special, music

1 video, or a television commercial or television program that will
2 serve as a pilot for or be a segment of an ongoing dramatic or
3 situation comedy series filmed or taped for network or national or
4 regional syndication or a feature-length motion picture intended for
5 theatrical release or for network or national or regional
6 syndication or broadcast. The provisions of this paragraph shall
7 apply to sales occurring on or after July 1, 1996. In order to
8 qualify for the exemption, the motion picture or television
9 production company shall file any documentation and information
10 required to be submitted pursuant to rules promulgated by the Tax
11 Commission;

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

14 25. Sales of tangible personal property or services to tax-
15 exempt independent nonprofit biomedical research foundations that
16 provide educational programs for Oklahoma science students and
17 teachers and to tax-exempt independent nonprofit community blood
18 banks headquartered in this state;

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

24

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

4 28. Beginning July 1, 2005, sales of aircraft engine repairs,
5 modification, and replacement parts, sales of aircraft frame repairs
6 and modification, aircraft interior modification, and paint, and
7 sales of services employed in the repair, modification and
8 replacement of parts of aircraft engines, aircraft frame and
9 interior repair and modification, and paint;

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

13 a. are loaded on the ship, motor vessel or barge and used
14 in the maintenance and operation of the ship, motor
15 vessel or barge, or

16 b. enter into and become component parts of the ship,
17 motor vessel or barge;

18 30. Sales of tangible personal property made at estate sales at
19 which such property is offered for sale on the premises of the
20 former residence of the decedent by a person who is not required to
21 be licensed pursuant to the Transient Merchant Licensing Act, or who
22 is not otherwise required to obtain a sales tax permit for the sale
23 of such property pursuant to the provisions of Section 1364 of this
24 title; provided:

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

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

16 32. Sales of prewritten computer software that is delivered
17 electronically. For purposes of this paragraph, "delivered
18 electronically" means delivered to the purchaser by means other than
19 tangible storage media;

20 33. Sales of modular dwelling units when built at a production
21 facility and moved in whole or in parts, to be assembled on-site,
22 and permanently affixed to the real property and used for
23 residential or commercial purposes. The exemption provided by this
24 paragraph shall equal forty-five percent (45%) of the total sales

1 price of the modular dwelling unit. For purposes of this paragraph,
2 "modular dwelling unit" means a structure that is not subject to the
3 motor vehicle excise tax imposed pursuant to Section 2103 of this
4 title;

5 34. Sales of tangible personal property or services to persons
6 who are residents of Oklahoma and have been honorably discharged
7 from active service in any branch of the Armed Forces of the United
8 States or Oklahoma National Guard and who have been certified by the
9 United States Department of Veterans Affairs or its successor to be
10 in receipt of disability compensation at the one-hundred-percent
11 rate and the disability shall be permanent and have been sustained
12 through military action or accident or resulting from disease
13 contracted while in such active service or the surviving spouse of
14 such person if the person is deceased and the spouse has not
15 remarried; provided, sales for the benefit of the person to a spouse
16 of the eligible person or to a member of the household in which the
17 eligible person resides and who is authorized to make purchases on
18 the person's behalf, when such eligible person is not present at the
19 sale, shall also be exempt for purposes of this paragraph. The
20 Oklahoma Tax Commission shall issue a separate exemption card to a
21 spouse of an eligible person or to a member of the household in
22 which the eligible person resides who is authorized to make
23 purchases on the person's behalf, if requested by the eligible
24 person. Sales qualifying for the exemption authorized by this

1 paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00)
2 per year per individual while the disabled veteran is living. Sales
3 qualifying for the exemption authorized by this paragraph shall not
4 exceed One Thousand Dollars (\$1,000.00) per year for an unremarried
5 surviving spouse. Upon request of the Tax Commission, a person
6 asserting or claiming the exemption authorized by this paragraph
7 shall provide a statement, executed under oath, that the total sales
8 amounts for which the exemption is applicable have not exceeded
9 Twenty-five Thousand Dollars (\$25,000.00) per year per living
10 disabled veteran or One Thousand Dollars (\$1,000.00) per year for an
11 unremarried surviving spouse. If the amount of such exempt sales
12 exceeds such amount, the sales tax in excess of the authorized
13 amount shall be treated as a direct sales tax liability and may be
14 recovered by the Tax Commission in the same manner provided by law
15 for other taxes, including penalty and interest;

16 35. Sales of electricity to the operator, specifically
17 designated by the Corporation Commission, of a spacing unit or lease
18 from which oil is produced or attempted to be produced using
19 enhanced recovery methods, including, but not limited to, increased
20 pressure in a producing formation through the use of water or
21 saltwater if the electrical usage is associated with and necessary
22 for the operation of equipment required to inject or circulate
23 fluids in a producing formation for the purpose of forcing oil or
24 petroleum into a wellbore for eventual recovery and production from

1 the wellhead. In order to be eligible for the sales tax exemption
2 authorized by this paragraph, the total content of oil recovered
3 after the use of enhanced recovery methods shall not exceed one
4 percent (1%) by volume. The exemption authorized by this paragraph
5 shall be applicable only to the state sales tax rate and shall not
6 be applicable to any county or municipal sales tax rate;

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

16 37. Sales of vitamins, minerals and dietary supplements by a
17 licensed chiropractor to a person who is the patient of such
18 chiropractor at the physical location where the chiropractor
19 provides chiropractic care or services to such patient. The
20 provisions of this paragraph shall not be applicable to any drug,
21 medicine or substance for which a prescription by a licensed
22 physician is required;

23 38. Sales of goods, wares, merchandise, tangible personal
24 property, machinery and equipment to a web search portal located in

1 this state which derives at least eighty percent (80%) of its annual
2 gross revenue from the sale of a product or service to an out-of-
3 state buyer or consumer. For purposes of this paragraph, "web
4 search portal" means an establishment classified under NAICS code
5 519130 which operates websites that use a search engine to generate
6 and maintain extensive databases of Internet addresses and content
7 in an easily searchable format;

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

16 40. Sales of tangible personal property or services to a
17 business primarily engaged in the repair of consumer electronic
18 goods, including, but not limited to, cell phones, compact disc
19 players, personal computers, MP3 players, digital devices for the
20 storage and retrieval of information through hard-wired or wireless
21 computer or Internet connections, if the devices are sold to the
22 business by the original manufacturer of such devices and the
23 devices are repaired, refitted or refurbished for sale by the entity
24 qualifying for the exemption authorized by this paragraph directly

1 to retail consumers or if the devices are sold to another business
2 entity for sale to retail consumers;

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

12 42. Sales of gold, silver, platinum, palladium or other bullion
13 items such as coins and bars and legal tender of any nation, which
14 legal tender is sold according to its value as precious metal or as
15 an investment. As used in the paragraph, "bullion" means any
16 precious metal, including, but not limited to, gold, silver,
17 platinum and palladium, that is in such a state or condition that
18 its value depends upon its precious metal content and not its form.
19 The exemption authorized by this paragraph shall not apply to
20 fabricated metals that have been processed or manufactured for
21 artistic use or as jewelry; and

22 43. Subject to the other requirements of this paragraph and the
23 requirements of Section 2 1357.21 of this ~~act~~ title, sale, lease,
24 rental, storage, use or other consumption of qualifying broadband

1 equipment by providers of Internet service or subsidiaries if the
2 property is directly used or consumed by the provider or subsidiary
3 in or during the distribution of broadband Internet service."
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