

OKLAHOMA STATE SENATE
JOINT
COMMITTEE REPORT

May 23, 2023

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

SB34

By: Thompson (Roger) et al of the Senate and Wallace et al of the House

Title: Public finance. Specifying certain duty of Director of Office of Management and Enterprise Services. Emergency.

Recommendation: **DO PASS AS AMENDED BY CS**

AYES: 20

Brooks, Burns, Dugger, Floyd, Hall, Haste, Hicks, Howard, Jech, Kirt, Matthews, Montgomery, Newhouse, Pugh, Rader, Rosino, Stephens, Thompson (K), Thompson (R), Woods

NAYS: 0

CONSTITUTIONAL PRIVILEGE: 0

Senator Roger Thompson, Chair

Committee Substitute, motion by Senator Thompson (R) - Adopted (Request No: 80)

OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET COMMITTEE

SB34

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Thompson (Roger) et al of the Senate

Title: Public finance. Specifying certain duty of Director of Office of Management and Enterprise Services. Emergency.

Coauthored By:

Recommendation: **DO PASS AS AMENDED BY CS**

Amendments:

1. Committee Substitute Attached


Chr.
Representative Kevin Wallace

YEAS: 36

Baker, Bashore, Bennett, Blancett, Boatman, Boles, Echols, Fetgatter, Ford, Goodwin, Hasenbeck, Hill, Kannady, Kendrix, Kerbs, Lawson, Lepak, Lowe (D), Luttrell, Martinez, McBride, McEntire, Miller, Moore, Munson, Newton, O'Donnell, Osburn, Pfeiffer, Provenzano, Ranson, Sterling, Strom, Vancuren, Wallace, West (T)

NAYS: 0

CONSTITUTIONAL PRIVILEGE: 0

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 34x

6 By: Thompson (Roger) and Hall
7 of the Senate

8 and

9 Wallace and Martinez of the
10 House

11 COMMITTEE SUBSTITUTE

12 An Act relating to sales tax; amending 68 O.S. 2021,
13 Section 1357, as last amended by Section 1, Chapter
14 512, O.S.L. 2021, which relates to sales tax
15 exemption; stating intent; requiring exemption to be
16 operative after certain date; amending 68 O.S. 2021,
17 Section 1357.21, which relates to rebates for
18 exemption and reporting requirements; terminating
19 requirement that exemption be based upon certain
20 formula; transferring certain requirements to the
21 Oklahoma Broadband Office; updating statutory
22 reference; updating statutory language; and declaring
23 an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1357, as
last amended by Section 1, Chapter 512, O.S.L. 2021, is amended to
read as follows:

Section 1357. Exemptions - General.

1 There are hereby specifically exempted from the tax levied by
2 the Oklahoma Sales Tax Code:

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

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

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

1 of its business. The sales tax shall apply to the purchase of motor
2 fuel or diesel fuel in Oklahoma by a common carrier by rail when
3 such motor fuel is purchased for fueling, within this state, of any
4 locomotive or other motorized flanged wheel equipment;

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

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

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

22 7. Eggs, feed, supplies, machinery and equipment purchased by
23 persons regularly engaged in the business of raising worms, fish,
24 any insect or any other form of terrestrial or aquatic animal life

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

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

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

22 10. Transfers of title or possession of empty, partially
23 filled, or filled returnable oil and chemical drums to any person
24 who is not regularly engaged in the business of selling, reselling

1 or otherwise transferring empty, partially filled, or filled
2 returnable oil drums;

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

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

15 13. Sales of food or food products, or any equipment or
16 supplies used in the preparation of the food or food products to or
17 by an organization which:

18 a. is exempt from taxation pursuant to the provisions of
19 Section 501(c)(3) of the Internal Revenue Code, 26
20 U.S.C., Section 501(c)(3), and which provides and
21 delivers prepared meals for home consumption to
22 elderly or homebound persons as part of a program
23 commonly known as "Meals on Wheels" or "Mobile Meals",
24 or

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

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

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

20 (2) facilitate the distribution of such products to
21 the needy.

22 b. Sales made in the course of business for profit or
23 savings, competing with other persons engaged in the
24

1 same or similar business shall not be exempt under
2 this paragraph;

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

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

23 17. Sales of tangible personal property consumed or
24 incorporated in the construction or expansion of a qualified

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

8 18. Sales of the following telecommunications services:

9 a. Interstate and International "800 service". "800
10 service" means a "telecommunications service" that
11 allows a caller to dial a toll-free number without
12 incurring a charge for the call. The service is
13 typically marketed under the name "800", "855", "866",
14 "877", and "888" toll-free calling, and any subsequent
15 numbers designated by the Federal Communications
16 Commission, or

17 b. Interstate and International "900 service". "900
18 service" means an inbound toll "telecommunications
19 service" purchased by a subscriber that allows the
20 subscriber's customers to call in to the subscriber's
21 prerecorded announcement or live service. "900
22 service" does not include the charge for: collection
23 services provided by the seller of the
24 "telecommunications services" to the subscriber, or

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

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

17 d. "Value-added nonvoice data service". "Value-added
18 nonvoice data service" means a service that otherwise
19 meets the definition of "telecommunications services"
20 in which computer processing applications are used to
21 act on the form, content, code, or protocol of the
22 information or data primarily for a purpose other than
23 transmission, conveyance or routing,
24

1 e. Interstate and International telecommunications
2 service which is:

3 (1) rendered by a company for private use within its
4 organization, or

5 (2) used, allocated, or distributed by a company to
6 its affiliated group,

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

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

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

18 20. Sales of aircraft and aircraft parts provided such sales
19 occur at a qualified aircraft maintenance facility. As used in this
20 paragraph, "qualified aircraft maintenance facility" means a
21 facility operated by an air common carrier, including one or more
22 component overhaul support buildings or structures in an area owned,
23 leased or controlled by the air common carrier, at which there were
24 employed at least two thousand (2,000) full-time-equivalent

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

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

16 a. as defined under Industrial Group Numbers 7372 and
17 7373 of the Standard Industrial Classification (SIC)
18 Manual, latest version, which derive at least fifty
19 percent (50%) of their annual gross revenues from the
20 sale of a product or service to an out-of-state buyer
21 or consumer, and

22 b. as defined under Industrial Group Number 7374 of the
23 SIC Manual, latest version, which derive at least
24 eighty percent (80%) of their annual gross revenues

1 from the sale of a product or service to an out-of-
2 state buyer or consumer.

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

11 22. Sales of prosthetic devices to an individual for use by
12 such individual. For purposes of this paragraph, "prosthetic
13 device" shall have the same meaning as provided in Section 1357.6 of
14 this title, but shall not include corrective eye glasses, contact
15 lenses or hearing aids;

16 23. Sales of tangible personal property or services to a motion
17 picture or television production company to be used or consumed in
18 connection with an eligible production. For purposes of this
19 paragraph, "eligible production" means a documentary, special, music
20 video, or a television commercial or television program that will
21 serve as a pilot for or be a segment of an ongoing dramatic or
22 situation comedy series filmed or taped for network or national or
23 regional syndication or a feature-length motion picture intended for
24 theatrical release or for network or national or regional

1 syndication or broadcast. The provisions of this paragraph shall
2 apply to sales occurring on or after July 1, 1996. In order to
3 qualify for the exemption, the motion picture or television
4 production company shall file any documentation and information
5 required to be submitted pursuant to rules promulgated by the Tax
6 Commission;

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

9 25. Sales of tangible personal property or services to tax-
10 exempt independent nonprofit biomedical research foundations that
11 provide educational programs for Oklahoma science students and
12 teachers and to tax-exempt independent nonprofit community blood
13 banks headquartered in this state;

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

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

22 28. Beginning July 1, 2005, sales of aircraft engine repairs,
23 modification, and replacement parts, sales of aircraft frame repairs
24 and modification, aircraft interior modification, and paint, and

1 sales of services employed in the repair, modification and
2 replacement of parts of aircraft engines, aircraft frame and
3 interior repair and modification, and paint;

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

7 a. are loaded on the ship, motor vessel or barge and used
8 in the maintenance and operation of the ship, motor
9 vessel or barge, or

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

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

19 a. such sale or event may not be held for a period
20 exceeding three (3) consecutive days,

21 b. the sale must be conducted within six (6) months of
22 the date of death of the decedent, and
23
24

1 c. the exemption allowed by this paragraph shall not be
2 allowed for property that was not part of the
3 decedent's estate;

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

12 32. Sales of prewritten computer software that is delivered
13 electronically. For purposes of this paragraph, "delivered
14 electronically" means delivered to the purchaser by means other than
15 tangible storage media;

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

1 34. Sales of tangible personal property or services to persons
2 who are residents of Oklahoma and have been honorably discharged
3 from active service in any branch of the Armed Forces of the United
4 States or Oklahoma National Guard and who have been certified by the
5 United States Department of Veterans Affairs or its successor to be
6 in receipt of disability compensation at the one-hundred-percent
7 rate and the disability shall be permanent and have been sustained
8 through military action or accident or resulting from disease
9 contracted while in such active service or the surviving spouse of
10 such person if the person is deceased and the spouse has not
11 remarried; provided, sales for the benefit of the person to a spouse
12 of the eligible person or to a member of the household in which the
13 eligible person resides and who is authorized to make purchases on
14 the person's behalf, when such eligible person is not present at the
15 sale, shall also be exempt for purposes of this paragraph. The
16 Oklahoma Tax Commission shall issue a separate exemption card to a
17 spouse of an eligible person or to a member of the household in
18 which the eligible person resides who is authorized to make
19 purchases on the person's behalf, if requested by the eligible
20 person. Sales qualifying for the exemption authorized by this
21 paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00)
22 per year per individual while the disabled veteran is living. Sales
23 qualifying for the exemption authorized by this paragraph shall not
24 exceed One Thousand Dollars (\$1,000.00) per year for an unremarried

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

12 35. Sales of electricity to the operator, specifically
13 designated by the Corporation Commission, of a spacing unit or lease
14 from which oil is produced or attempted to be produced using
15 enhanced recovery methods, including, but not limited to, increased
16 pressure in a producing formation through the use of water or
17 saltwater if the electrical usage is associated with and necessary
18 for the operation of equipment required to inject or circulate
19 fluids in a producing formation for the purpose of forcing oil or
20 petroleum into a wellbore for eventual recovery and production from
21 the wellhead. In order to be eligible for the sales tax exemption
22 authorized by this paragraph, the total content of oil recovered
23 after the use of enhanced recovery methods shall not exceed one
24 percent (1%) by volume. The exemption authorized by this paragraph

1 shall be applicable only to the state sales tax rate and shall not
2 be applicable to any county or municipal sales tax rate;

3 36. Sales of intrastate charter and tour bus transportation.

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

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

19 38. Sales of goods, wares, merchandise, tangible personal
20 property, machinery and equipment to a web search portal located in
21 this state which derives at least eighty percent (80%) of its annual
22 gross revenue from the sale of a product or service to an out-of-
23 state buyer or consumer. For purposes of this paragraph, "web
24 search portal" means an establishment classified under NAICS code

1 519130 which operates websites that use a search engine to generate
2 and maintain extensive databases of Internet addresses and content
3 in an easily searchable format;

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

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

23 41. On or after July 1, 2019, and prior to July 1, 2024, sales
24 or leases of rolling stock when sold or leased by the manufacturer,

1 regardless of whether the purchaser is a public services corporation
2 engaged in business as a common carrier of property or passengers by
3 railway, for use or consumption by a common carrier directly in the
4 rendition of public service. For purposes of this paragraph,
5 "rolling stock" means locomotives, autocars and railroad cars and
6 "sales or leases" includes railroad car maintenance and retrofitting
7 of railroad cars for their further use only on the railways;

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

18 43. Subject to the other requirements of this paragraph and the
19 requirements of Section ~~2~~ 1357.21 of this ~~act~~ title, sale, lease,
20 rental, storage, use or other consumption of qualifying broadband
21 equipment by providers of Internet service or subsidiaries if the
22 property is directly used or consumed by the provider or subsidiary
23 in or during the distribution of broadband Internet service. The
24 Legislature finds that pursuant to the provisions of subsection H of

1 Section 1357.21 of this title, the provisions of this paragraph were
2 originally made contingent upon the enactment of an incentive award
3 formula. Notwithstanding the failure to fulfill the condition as
4 prescribed by subsection H of Section 1357.21 of this title, as
5 originally enacted, the provisions of this paragraph shall be
6 operative on and after the effective date of this act.

7 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1357.21, is
8 amended to read as follows:

9 Section 1357.21. A. The exemption authorized by the provisions
10 of paragraph 43 of Section 1357 of ~~Title 68 of the Oklahoma Statutes~~
11 this title shall be administered as a rebate.

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

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

23 D. In order to qualify for rebate payments during the fiscal
24 year beginning July 1, 2022, equipment or other items qualifying for

1 the exemption authorized by paragraph 43 of Section 1357 of ~~Title 68~~
2 ~~of the Oklahoma Statutes~~ this title must be purchased and placed in
3 service between January 1, 2022, and December 31, 2023. Claims for
4 rebates of sales tax or use tax paid for such equipment purchased in
5 calendar year 2022 shall be filed with the Oklahoma Tax Commission
6 not later than September 1, 2023, and claims for rebates for sales
7 or use tax paid for such equipment purchased in calendar year 2023
8 shall be filed with the Oklahoma Tax Commission not later than
9 September 1, 2024. All claims shall be processed by the Tax
10 Commission not later than March 1, 2025.

11 E. Qualifying purchases do not include supporting or ancillary
12 functions, such as office operations, field operations, marketing,
13 transportation, warehousing, data storage, or similar operations
14 that do not directly result in the distribution of broadband
15 Internet service. Property directly used or consumed in or during
16 the provision, creation, or production of a data processing service
17 or information service, or property the provider grants, sells, or
18 leases to the customer for use within the home or establishment
19 receiving broadband is not eligible for a rebate under this section.

20 F. The total amount of rebates that may be paid shall not
21 exceed Forty-two Million Dollars (\$42,000,000.00) with Thirty-one
22 Million Five Hundred Thousand Dollars (\$31,500,000.00) of the total
23 reserved for eligible projects serving counties having a population
24 density of fewer than one hundred persons per square mile and Ten

1 Million Five Hundred Thousand Dollars (\$10,500,000.00) of the total
2 reserved for eligible projects serving counties having a population
3 density of one hundred or more persons per square mile.

4 G. The amount of rebate paid to each claimant shall be computed
5 by dividing the applicable total rebate pool amount by the dollar
6 amount of claims timely received by the Tax Commission with respect
7 to each fiscal year, and paying in full the amount of the claims
8 submitted if the amount of claims are equal to, or less than, the
9 total rebate pool, or a pro rata share if the total amount of claims
10 submitted exceed the rebate pool.

11 H. For the fiscal year beginning July 1, 2023, and all
12 subsequent fiscal years, the total amount of rebate that may be paid
13 shall not exceed Forty-two Million Dollars (\$42,000,000.00), ~~but the~~
14 ~~allocation of this amount shall be made using an incentive award~~
15 ~~formula as enacted into law by the Legislature after recommendation~~
16 ~~by the Rural Broadband Expansion Council. If an incentive award~~
17 ~~formula is not enacted into law as of January 1, 2023, then the~~
18 ~~sales tax exemption otherwise authorized pursuant to paragraph 43 of~~
19 ~~Section 1357 of Title 68 of the Oklahoma Statutes shall cease to be~~
20 ~~effective as law and the exemption shall not be applicable to any~~
21 ~~equipment purchase made on or after January 1, 2024.~~

22 I. Claims for rebate shall be on such forms as the Oklahoma Tax
23 Commission may prescribe for such purpose and shall contain any
24

1 required information or supporting documentation the Commission
2 requires to verify eligibility for the rebate payment.

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

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

19 L. The report shall be filed with the Governor, the Speaker of
20 the ~~Oklahoma~~ House of Representatives and the President Pro Tempore
21 of the ~~Oklahoma State~~ Senate and posted on the ~~Rural~~ Oklahoma
22 Broadband Expansion Council Office website ~~maintained by the~~
23 ~~Oklahoma Department of Commerce.~~

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1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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