

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 3079

6 By: Dorman

7 SUBCOMMITTEE RECOMMENDATION

8 (Revenue and taxation - income tax credits -
9 installation of wind or photovoltaic energy systems
10 - income tax credits - geothermal heating and
11 cooling systems - carryover - amending 68 O.S.
12 2001, Section 1357 - sales tax exemptions -
13 equipment - codification -
14 effective date)

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2357.206 of Title 68, unless
21 there is created a duplication in numbering, reads as follows:

22 A. 1. For all taxable years beginning after December 31, 2008,
23 any taxpayer, having a wind and/or photovoltaic energy system
24 installed on residential property in this state, may claim a credit

1 against the tax imposed by Section 2355 of Title 68 of the Oklahoma
2 Statutes. In determining the amount of credit allowed, the taxpayer
3 may include in the total costs of the wind and/or photovoltaic
4 energy system such direct expenses incurred for equipment,
5 construction, and installation of the system, less all seller
6 rebates and remunerations of any type resulting from the
7 installation.

8 2. The following percentage of the qualified wind and/or
9 photovoltaic energy system expenditures shall be allowed as a credit
10 under the provisions of this subsection for the taxable year in
11 which the cost is incurred:

12	Taxable Year	Percentage of Expenditure
13	a. 2009	20%
14	b. 2010	20%
15	c. 2011	20%
16	d. 2012	20%
17	e. 2013	20%

18 B. 1. For all taxable years beginning after December 31, 2008,
19 any taxpayer, having a geothermal heating and cooling system
20 installed on residential property in this state, may claim a credit
21 against the tax imposed by Section 2355 of Title 68 of the Oklahoma
22 Statutes. In determining the amount of credit allowed, the taxpayer
23 may include in the total costs of the geothermal heat and air system
24 such direct expenses incurred for equipment, construction, and

1 installation of the system, less all seller rebates and
2 remunerations of any type resulting from the installation.

3 2. The following percentage of the qualified geothermal heating
4 and cooling system expenditures shall be allowed as a credit under
5 the provisions of this subsection for the taxable year in which the
6 cost is incurred:

7	Taxable Year	Percentage of Expenditure
8	a. 2009	5%
9	b. 2010	5%
10	c. 2011	5%
11	d. 2012	5%
12	e. 2013	5%

13 C. If the tax credit allowable to the taxpayer for the cost of
14 a wind and/or photovoltaic energy system or geothermal heating and
15 cooling system pursuant to subsection A or B of this section exceeds
16 the taxes due on the income of the taxpayer, the amount of the claim
17 not used as an offset against the income taxes of a taxable year may
18 be carried forward as a credit against subsequent income tax
19 liabilities for up to ten (10) years.

20 D. 1. For all taxable years beginning after December 31, 2008,
21 any taxpayer, having a wind and/or photovoltaic energy system
22 installed on nonresidential property in this state, may claim a
23 credit against the tax imposed by Section 2355 of Title 68 of the
24 Oklahoma Statutes. In determining the amount of credit allowed, the

1 taxpayer may include in the total costs of the wind and/or
2 photovoltaic energy system such direct expenses incurred for
3 equipment, construction, and installation of the system, less all
4 seller rebates and remunerations of any type resulting from the
5 installation.

6 2. The following percentage of the qualified wind and/or
7 photovoltaic energy system expenditures shall be allowed as a credit
8 under the provisions of this subsection for the taxable year in
9 which the cost is incurred:

10	Taxable Year	Percentage of Expenditure
11	a. 2009	20%
12	b. 2010	20%
13	c. 2011	20%
14	d. 2012	20%
15	e. 2013	20%

16 3. For the purposes of qualifying for the tax credit provided
17 for in this subsection, more than fifty percent (50%) of the energy
18 produced by the wind and/or photovoltaic energy system must be
19 utilized on the premises of the installation and the wind turbines
20 and solar arrays may not exceed one hundred kilowatts (100 kW) in
21 nameplate power rating.

22 E. 1. For all taxable years beginning after December 31, 2008,
23 any taxpayer, having a geothermal heating and cooling system
24 installed on nonresidential property in this state, may claim a

1 credit against the tax imposed by Section 2355 of Title 68 of the
2 Oklahoma Statutes. In determining the amount of credit allowed, the
3 taxpayer may include in the total costs of the geothermal heat and
4 air system such direct expenses incurred for equipment,
5 construction, and installation of the system, less all seller
6 rebates and remunerations of any type resulting from the
7 installation.

8 2. The following percentage of the qualified geothermal heating
9 and cooling system expenditures shall be allowed as a credit under
10 the provisions of this subsection for the taxable year in which the
11 cost is incurred:

12	Taxable Year	Percentage of Expenditure
13	a. 2009	5%
14	b. 2010	5%
15	c. 2011	5%
16	d. 2012	5%
17	e. 2013	5%

18 3. If the tax credit allowable to the taxpayer for the cost of
19 a wind and/or photovoltaic energy system or geothermal heating and
20 cooling system pursuant to subsection C or D of this section exceeds
21 the taxes due on the income of the taxpayer, the amount of the claim
22 not used as an offset against the income taxes of a taxable year may
23 be carried forward as a credit against subsequent income tax
24 liabilities for up to ten (10) years.

1 F. An itemized accounting of the cost and an affidavit
2 attesting to the facts thereof shall be furnished to the taxpayer by
3 the supplier of the wind and/or photovoltaic energy system or
4 geothermal heating and cooling system. The itemized accounting
5 shall include the amounts properly attributable to the cost of
6 acquisition, construction, and installation of the renewable energy
7 system. The taxpayer shall include a copy of said accounting when
8 claiming either credit provided for in this section.

9 G. Wind turbines shall be rated in accordance with the latest
10 performance rating standards published or endorsed by the American
11 Wind Energy Association (AWEA) and the manufacturer must be a member
12 in good standing of AWEA or the Small Wind Industry Council (SWIC)
13 in order to qualify for the credits provided for in this section.
14 Photovoltaic modules shall be rated in accordance with the latest
15 United States Department of Energy (US-DOE) or Solar Energy
16 Industries Association (SEIA) endorsed performance rating standard
17 and the manufacturer must be a member in good standing of SEIA in
18 order to qualify for the credits provided for in this section.

19 H. For wind and/or solar energy systems, product performance
20 specifications conforming to either AWEA or DOE/SEIA standards, as
21 appropriate, for renewable energy generating equipment shall be
22 provided to potential purchasers prior to any qualifying purchase.
23 Wind and/or solar energy resource information, as most recently
24 published by the U.S. Department of Energy or the State of Oklahoma,

1 for the state shall also be provided to potential purchasers prior
2 to any qualifying purchase pursuant to the provisions of this
3 section.

4 I. Geothermal heating and cooling systems shall be rated in
5 accordance with the latest performance rating standards published or
6 endorsed by the American Refrigeration Institute (ARI) and the
7 manufacturer and installing contractor must be a member in good
8 standing of the International Ground Source Heat Pump Association
9 (IGSHPA) in order to qualify for the credits provided for in this
10 section.

11 J. For the purpose of either credit provided for in this
12 section, qualifying wind and/or photovoltaic energy systems or
13 geothermal heat and air systems shall carry, as a minimum, a five-
14 year limited warranty covering defects in design and manufacture.
15 For other than owner-installed systems, qualifying renewable energy
16 systems shall also carry, as a minimum, a five-year limited warranty
17 covering defects in installation.

18 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1357, as
19 last amended by Section 1, Chapter 253, O.S.L. 2007 (68 O.S. Supp.
20 2007, Section 1357), is amended to read as follows:

21 Section 1357. Exemptions - General.

22 There are hereby specifically exempted from the tax levied by
23 the Oklahoma Sales Tax Code:

24

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

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

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

1 such motor fuel is purchased for fueling, within this state, of any
2 locomotive or other motorized flanged wheel equipment;

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

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

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

20 7. Eggs, feed, supplies, machinery and equipment purchased by
21 persons regularly engaged in the business of raising worms, fish,
22 any insect or any other form of terrestrial or aquatic animal life
23 and used for the purpose of raising same for marketing. This
24 exemption shall only be granted and extended to the purchaser when

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

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

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

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

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

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

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

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

1 U.S.C., Section 501(c)(3), and which receives federal
2 funding pursuant to the Older Americans Act of 1965,
3 as amended, for the purpose of providing nutrition
4 programs for the care and benefit of elderly persons;

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

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

18 (2) facilitate the distribution of such products to
19 the needy.

20 b. sales made in the course of business for profit or
21 savings, competing with other persons engaged in the
22 same or similar business shall not be exempt under
23 this paragraph;
24

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

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

21 17. Sales of tangible personal property consumed or
22 incorporated in the construction or expansion of a qualified
23 aircraft maintenance or manufacturing facility as defined in
24 paragraph 16 of this section. For purposes of this paragraph, sales

1 made to a contractor or subcontractor that has previously entered
2 into a contractual relationship with a qualified aircraft
3 maintenance or manufacturing facility for construction or expansion
4 of such a facility shall be considered sales made to a qualified
5 aircraft maintenance or manufacturing facility;

6 18. Sales of the following telecommunications services:

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

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

1 marketed under the name "900" service, and any
2 subsequent numbers designated by the Federal
3 Communications Commission,

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

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

22 e. interstate and ~~International~~ international
23 telecommunications service which is:
24

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

3 (2) used, allocated, or distributed by a company to
4 its affiliated group,

5 f. regulatory assessments and charges, including charges
6 to fund the Oklahoma Universal Service Fund, the
7 Oklahoma Lifeline Fund and the Oklahoma High Cost
8 Fund, and

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

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

16 20. Sales of aircraft and aircraft parts provided such sales
17 occur at a qualified aircraft maintenance facility. As used in this
18 paragraph, "qualified aircraft maintenance facility" means a
19 facility operated by an air common carrier at which there were
20 employed at least two thousand (2,000) full-time-equivalent
21 employees in the preceding year as certified by the Oklahoma
22 Employment Security Commission and which is primarily related to the
23 fabrication, repair, alteration, modification, refurbishing,
24 maintenance, building or rebuilding of commercial aircraft or

1 aircraft parts used in air common carriage. For purposes of this
2 paragraph, "air common carrier" shall also include members of an
3 affiliated group as defined by Section 1504 of the Internal Revenue
4 Code, 26 U.S.C., Section 1504;

5 21. Sales of machinery and equipment purchased and used by
6 persons and establishments primarily engaged in computer services
7 and data processing:

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

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

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

1 all sales to the federal government shall be considered to be to an
2 out-of-state buyer or consumer;

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

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

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

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

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

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

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

20 29. Sales of materials and supplies to the owner or operator of
21 a ship, motor vessel or barge that is used in interstate or
22 international commerce if the materials and supplies:
23
24

1 a. are loaded on the ship, motor vessel or barge and used
2 in the maintenance and operation of the ship, motor
3 vessel or barge, or

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

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

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

15 b. the sale must be conducted within six (6) months of
16 the date of death of the decedent, and

17 c. the exemption allowed by this paragraph shall not be
18 allowed for property that was not part of the
19 decedent's estate;

20 31. Beginning January 1, 2004, sales of electricity and
21 associated delivery and transmission services, when sold exclusively
22 for use by an oil and gas operator for reservoir dewatering projects
23 and associated operations commencing on or after July 1, 2003, in
24 which the initial water-to-oil ratio is greater than or equal to

1 five-to-one water-to-oil, and such oil and gas development projects
2 have been classified by the Corporation Commission as a reservoir
3 dewatering unit;

4 32. Sales of prewritten computer software that is delivered
5 electronically. For purposes of this paragraph, "delivered
6 electronically" means delivered to the purchaser by means other than
7 tangible storage media;

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

17 34. Sales of tangible personal property or services to persons
18 who are residents of Oklahoma and have been honorably discharged
19 from active service in any branch of the Armed Forces of the United
20 States or Oklahoma National Guard and who have been certified by the
21 United States Department of Veterans Affairs or its successor to be
22 in receipt of disability compensation at the one-hundred-percent
23 rate and the disability shall be permanent and have been sustained
24 through military action or accident or resulting from disease

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

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

1 circulate fluids in a producing formation for the purpose of forcing
2 oil or petroleum into a wellbore for eventual recovery and
3 production from the wellhead. In order to be eligible for the sales
4 tax exemption authorized by this paragraph, the total content of oil
5 recovered after the use of enhanced recovery methods shall not
6 exceed one percent (1%) by volume. The exemption authorized by this
7 paragraph shall be applicable only to the state sales tax rate and
8 shall not be applicable to any county or municipal sales tax rate;

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

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

1 38. Sales of goods, wares, merchandise, tangible personal
2 property, machinery and equipment to a web search portal located in
3 this state which derives at least eighty percent (80%) of its annual
4 gross revenue from the sale of a product or service to an out-of-
5 state buyer or consumer. For purposes of this paragraph, "web
6 search portal" means an establishment classified under NAICS code
7 518112 which operates web sites that use a search engine to generate
8 and maintain extensive databases of Internet addresses and content
9 in an easily searchable format;

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

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

1 devices are repaired, refitted or refurbished for sale by the entity
2 qualifying for the exemption authorized by this paragraph directly
3 to retail consumers or if the devices are sold to another business
4 entity for sale to retail consumers; and

5 41. Sales of tangible personal property that consist of
6 qualified renewable energy equipment for which the income tax credit
7 authorized by Section 1 of this act may be claimed.

8 SECTION 3. This act shall become effective January 1, 2009.

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10 51-2-10184 MAH 02/20/08

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