

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend House Bill No. 2583, Page 1, Line 12½,

as follows:

By inserting a new SECTION 1 to read as per attached and by renumbering subsequent sections.

Submitted by:

Senator Rabon

Rabon-JCR-FA-HB2583
4/15/2008 2:47 PM

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

3 Section 1357. There are hereby specifically exempted from the tax levied by the Oklahoma
4 Sales Tax Code:

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

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

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

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

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

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

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

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

24 9. In addition to the exemptions authorized by Section 1357.6 of this title, sales of drugs sold
25 pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe

1 the drugs, and sales of insulin and medical oxygen. Provided, this exemption shall not apply to
2 over-the-counter drugs;

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

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

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

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

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

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

1 this paragraph, the cost of the items purchased by the qualified aircraft maintenance or
2 manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

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

9 18. Sales of the following telecommunications services:

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

16 b. Interstate and International “900 service”. “900 service” means an inbound toll
17 “telecommunications service” purchased by a subscriber that allows the
18 subscriber’s customers to call in to the subscriber’s prerecorded announcement
19 or live service. “900 service” does not include the charge for: collection
20 services provided by the seller of the “telecommunications services” to the
21 subscriber, or service or product sold by the subscriber to the subscriber’s
22 customer. The service is typically marketed under the name “900” service, and
23 any subsequent numbers designated by the Federal Communications
24 Commission,

1 c. Interstate and International “private communications service”. “Private
2 communications service” means a “telecommunications service” that entitles
3 the customer to exclusive or priority use of a communications channel or group
4 of channels between or among termination points, regardless of the manner in
5 which such channel or channels are connected, and includes switching capacity,
6 extension lines, stations, and any other associated services that are provided in
7 connection with the use of such channel or channels,

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

13 e. Interstate and International telecommunications service which is:

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

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

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

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

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

24 20. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft
25 maintenance facility. As used in this paragraph, “qualified aircraft maintenance facility” means a

1 facility operated by an air common carrier at which there were employed at least two thousand
2 (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma
3 Employment Security Commission and which is primarily related to the fabrication, repair,
4 alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or
5 aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier"
6 shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue
7 Code, 26 U.S.C., Section 1504;

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

- 10 a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard
11 Industrial Classification (SIC) Manual, latest version, which derive at least fifty
12 percent (50%) of their annual gross revenues from the sale of a product or
13 service to an out-of-state buyer or consumer, and
- 14 b. as defined under Industrial Group Number 7374 of the SIC Manual, latest
15 version, which derive at least eighty percent (80%) of their annual gross
16 revenues from the sale of a product or service to an out-of-state buyer or
17 consumer.

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

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

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

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

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

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

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

1 28. Beginning July 1, 2005, sales of aircraft engine repairs, modification, and replacement
2 parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and
3 sales of services employed in the repair, modification and replacement of parts of aircraft engines,
4 aircraft frame and interior repair and modification, and paint;

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

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

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

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

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

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

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

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

1 32. Sales of prewritten computer software that is delivered electronically. For purposes of
2 this paragraph, “delivered electronically” means delivered to the purchaser by means other than
3 tangible storage media;

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

10 34. Sales of tangible personal property or services to persons who are residents of Oklahoma
11 and have been honorably discharged from active service in any branch of the Armed Forces of the
12 United States or Oklahoma National Guard and who have been certified by the United States
13 Department of Veterans Affairs or its successor to be in receipt of disability compensation at the
14 one-hundred-percent rate and the disability shall be permanent and have been sustained through
15 military action or accident or resulting from disease contracted while in such active service;
16 provided, sales for the benefit of the person to a spouse of the eligible person or to a member of the
17 household in which the eligible person resides and who is authorized to make purchases on the
18 person’s behalf, when such eligible person is not present at the sale, shall also be exempt for
19 purposes of this paragraph. Sales qualifying for the exemption authorized by this paragraph shall
20 not exceed Twenty-five Thousand Dollars (\$25,000.00) per year per individual. Upon request of the
21 Tax Commission, a person asserting or claiming the exemption authorized by this paragraph shall
22 provide a statement, executed under oath, that the total sales amounts for which the exemption is
23 applicable have not exceeded Twenty-five Thousand Dollars (\$25,000.00) per year. If the amount of
24 such exempt sales exceeds such amount, the sales tax in excess of the authorized amount shall be

1 treated as a direct sales tax liability and may be recovered by the Tax Commission in the same
2 manner provided by law for other taxes, including penalty and interest;

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

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

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

24 38. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment
25 to a web search portal located in this state which derives at least eighty percent (80%) of its annual

1 gross revenue from the sale of a product or service to an out-of-state buyer or consumer. For
2 purposes of this paragraph, “web search portal” means an establishment classified under NAICS
3 code 518112 which operates web sites that use a search engine to generate and maintain extensive
4 databases of Internet addresses and content in an easily searchable format;

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

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

18 41. Sales of rolling stock when sold or leased by the manufacturer, regardless of whether the
19 purchaser is a public service corporation engaged in business as a common carrier of property or
20 passengers by railway, for use or consumption by a common carrier directly in the rendition of
21 public service. For purposes of this paragraph, “rolling stock” means locomotives, autocars and
22 railroad cars.”

23