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HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1104

By: Sears of the House and Mazzei of the Senate

Title: Revenue and taxation; gross production taxes; reporting; information; sales tax exemption;
 repealer; effective date; emergency.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

- 1) That the Senate recede from its amendment; and
- 2) That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB1104 CCR (A)
HOUSE CONFEREES

Armes, Don



Billy, Lisa J.

Brown, Mike

Christian, Mike

Coody, Ann



Cox, Doug



Denney, Lee



Dorman, Joe

Hickman, Jeffrey W.



Hoskin, Chuck

Kern, Sally



Martin, Scott



McCullough, Mark



McDaniel, Jeannie

McNiel, Skye



McPeak, Jerry

Morrisette, Richard

Nelson, Jason



Newell, Tom



Osborn, Leslie



Proctor, Eric

Roberts, Sean

Sanders, Mike



Schwartz, Colby



Sears, Earl



Watson, Weldon



Wesselhoft, Paul

SENATE CONFEREES

Bass _____

Branan _____

Brinkley *Robert Brinkley*

Coates _____

Crain _____

David *David*

Ellis _____

Fields *Eddie Fields*

Ford *John Ford*

Griffin *Al Griffin*

Halligan _____

Holt *David Holt*

Ivester _____

C. Johnson _____

R. Johnson _____

Jolley *Bob Jolley*

Justice *Justice*

Marlatt *Al Pratt*

Mazzei _____

Newberry _____

Paddack *Paddack*

Standridge *Standridge*

Stanislowski *Stanislowski*

Sykes _____

Treat *Treat*

Wyrick _____

House Action _____ Date _____ Senate Action _____ Date _____

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1104

By: Sears of the House

and

Mazzei of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 412 and 418, which relate to taxation of tobacco products; authorizing imposition of certain fines; amending 68 O.S. 2011, Sections 1356, as amended by Section 541, Chapter 304, O.S.L. 2012 and 1359 (68 O.S. Supp. 2012, Section 1356), which relate to sales tax exemptions; modifying statutory references; repealing 68 O.S. 2011, Section 1368.2, which relates to notices to sales tax vendors; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 412, is amended to read as follows:

Section 412. (a) Every wholesaler, jobber, retailer or consumer who purchases or allows to come into his or her possession any unstamped merchandise coming under the scope of this article

1 shall file with the Oklahoma Tax Commission a surety or collateral
2 or cash bond in the amount of Twenty-five Thousand Dollars
3 (\$25,000.00), payable to the State of Oklahoma and conditioned upon
4 compliance with the provisions of this article and the rules of the
5 Tax Commission.

6 (b) Any consumer who purchases or brings into this state
7 unstamped cigars or tobacco products whereon the tax would be more
8 than twenty-five cents (\$0.25) is subject to the tax thereon. Upon
9 failure to pay the tax levied in this article, the consumer shall be
10 subject to a fine of not more than Five Hundred Dollars (\$500.00) or
11 not less than Twenty-five Dollars (\$25.00). Provided, any person in
12 possession of more than one thousand small or large cigars or two
13 hundred sixteen (216) ounces of chewing or smoking tobacco products
14 in packages or containers for which the tax required by law has not
15 been paid shall be punished by administrative fines in the manner
16 and amounts provided in subsection D of Section 418 of this title.

17 SECTION 2. AMENDATORY 68 O.S. 2011, Section 418, is
18 amended to read as follows:

19 Section 418. A. It shall be unlawful for any person to
20 transport or possess unstamped tobacco products where the tax on
21 such unstamped tobacco products exceeds the sum of One Dollar
22 (\$1.00).

23 B. Except as otherwise provided in subsections C and D of this
24 section, any person found guilty of violating the provisions of

1 Section 401 et seq. of this title shall be punished by an
2 administrative fine of not more than Five Hundred Dollars (\$500.00).
3 Provided, any person in possession of more than one thousand small
4 or large cigars or two hundred sixteen (216) ounces of chewing or
5 smoking tobacco products in packages or containers for which the tax
6 required by law has not been paid shall be punished by
7 administrative fines in the manner and amounts provided in
8 subsection D of this section.

9 C. Any retailer violating the provisions of Section 403.2 of
10 this title shall:

11 1. For a first offense, be punished by an administrative fine
12 of not more than One Thousand Dollars (\$1,000.00);

13 2. For a second offense, punished by an administrative fine of
14 not more than Five Thousand Dollars (\$5,000.00); and

15 3. For a third or subsequent offense, be punished by an
16 administrative fine of not more than Ten Thousand Dollars
17 (\$10,000.00).

18 D. Any wholesaler, distributing agent or dealer violating the
19 provisions of Section 403.2 of this title shall:

20 1. For a first offense, be punished by an administrative fine
21 of not more than Five Thousand Dollars (\$5,000.00); and

22 2. For a second or subsequent offense, be punished by an
23 administrative fine of not more than Twenty Thousand Dollars
24 (\$20,000.00).

1 Administrative fines collected pursuant to the provisions of
2 this subsection shall be deposited to the revolving fund created in
3 Section 305.2 of this title.

4 E. The Oklahoma Tax Commission shall immediately revoke the
5 license of a person punished for a violation pursuant to the
6 provisions of paragraph 3 of subsection C of this section or a
7 person punished for a violation pursuant to the provisions of
8 subsection D of this section. A person whose license is so revoked
9 shall not be eligible to receive another license pursuant to the
10 provisions of Section 301 et seq. of this title for a period of ten
11 (10) years.

12 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1356, as
13 amended by Section 541, Chapter 304, O.S.L. 2012 (68 O.S. Supp.
14 2012, Section 1356), is amended to read as follows:

15 Section 1356. Exemptions - Governmental and nonprofit entities.

16 There are hereby specifically exempted from the tax levied by
17 Section 1350 et seq. of this title:

18 1. Sale of tangible personal property or services to the United
19 States government or to the State of Oklahoma, any political
20 subdivision of this state or any agency of a political subdivision
21 of this state; provided, all sales to contractors in connection with
22 the performance of any contract with the United States government,
23 State of Oklahoma or any of its political subdivisions shall not be
24

1 exempted from the tax levied by Section 1350 et seq. of this title,
2 except as hereinafter provided;

3 2. Sales of property to agents appointed by or under contract
4 with agencies or instrumentalities of the United States government
5 if ownership and possession of such property transfers immediately
6 to the United States government;

7 3. Sales of property to agents appointed by or under contract
8 with a political subdivision of this state if the sale of such
9 property is associated with the development of a qualified federal
10 facility, as provided in the Oklahoma Federal Facilities Development
11 Act, and if ownership and possession of such property transfers
12 immediately to the political subdivision or the state;

13 4. Sales made directly by county, district or state fair
14 authorities of this state, upon the premises of the fair authority,
15 for the sole benefit of the fair authority or sales of admission
16 tickets to such fairs or fair events at any location in the state
17 authorized by county, district or state fair authorities; provided,
18 the exemption provided by this paragraph for admission tickets to
19 fair events shall apply only to any portion of the admission price
20 that is retained by or distributed to the fair authority. As used
21 in this paragraph, "fair event" shall be limited to an event held on
22 the premises of the fair authority in conjunction with and during
23 the time period of a county, district or state fair;

1 5. Sale of food in cafeterias or lunch rooms of elementary
2 schools, high schools, colleges or universities which are operated
3 primarily for teachers and pupils and are not operated primarily for
4 the public or for profit;

5 6. Dues paid to fraternal, religious, civic, charitable or
6 educational societies or organizations by regular members thereof,
7 provided, such societies or organizations operate under what is
8 commonly termed the lodge plan or system, and provided such
9 societies or organizations do not operate for a profit which inures
10 to the benefit of any individual member or members thereof to the
11 exclusion of other members and dues paid monthly or annually to
12 privately owned scientific and educational libraries by members
13 sharing the use of services rendered by such libraries with students
14 interested in the study of geology, petroleum engineering or related
15 subjects;

16 7. Sale of tangible personal property or services to or by
17 churches, except sales made in the course of business for profit or
18 savings, competing with other persons engaged in the same or a
19 similar business or sale of tangible personal property or services
20 by an organization exempt from federal income tax pursuant to
21 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
22 made on behalf of or at the request of a church or churches if the
23 sale of such property is conducted not more than once each calendar
24 year for a period not to exceed three (3) days by the organization

1 and proceeds from the sale of such property are used by the church
2 or churches or by the organization for charitable purposes;

3 8. The amount of proceeds received from the sale of admission
4 tickets which is separately stated on the ticket of admission for
5 the repayment of money borrowed by any accredited state-supported
6 college or university or any public trust of which a county in this
7 state is the beneficiary, for the purpose of constructing or
8 enlarging any facility to be used for the staging of an athletic
9 event, a theatrical production, or any other form of entertainment,
10 edification or cultural cultivation to which entry is gained with a
11 paid admission ticket. Such facilities include, but are not limited
12 to, athletic fields, athletic stadiums, field houses, amphitheaters
13 and theaters. To be eligible for this sales tax exemption, the
14 amount separately stated on the admission ticket shall be a
15 surcharge which is imposed, collected and used for the sole purpose
16 of servicing or aiding in the servicing of debt incurred by the
17 college or university to effect the capital improvements
18 hereinbefore described;

19 9. Sales of tangible personal property or services to the
20 council organizations or similar state supervisory organizations of
21 the Boy Scouts of America, Girl Scouts of U.S.A. and Camp Fire USA;

22 10. Sale of tangible personal property or services to any
23 county, municipality, rural water district, public school district,
24 the institutions of The Oklahoma State System of Higher Education,

1 the Grand River Dam Authority, the Northeast Oklahoma Public
2 Facilities Authority, the Oklahoma Municipal Power Authority, City
3 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
4 Authority, the Oklahoma Department of Veterans Affairs, the Broken
5 Bow Economic Development Authority, Ardmore Development Authority,
6 Durant Industrial Authority, Oklahoma Ordnance Works Authority,
7 Central Oklahoma Master Conservancy District, Arbuckle Master
8 Conservancy District, Fort Cobb Master Conservancy District, Foss
9 Reservoir Master Conservancy District, Mountain Park Master
10 Conservancy District, Waurika Lake Master Conservancy District,
11 Office of Management and Enterprise Services only when carrying out
12 a public construction contract on behalf of the Oklahoma Department
13 of Veterans Affairs or to any person with whom any of the above-
14 named subdivisions or agencies of this state has duly entered into a
15 public contract pursuant to law, necessary for carrying out such
16 public contract or to any subcontractor to such a public contract.
17 Any person making purchases on behalf of such subdivision or agency
18 of this state shall certify, in writing, on the copy of the invoice
19 or sales ticket to be retained by the vendor that the purchases are
20 made for and on behalf of such subdivision or agency of this state
21 and set out the name of such public subdivision or agency. Any
22 person who wrongfully or erroneously certifies that purchases are
23 for any of the above-named subdivisions or agencies of this state or
24 who otherwise violates this section shall be guilty of a misdemeanor

1 and upon conviction thereof shall be fined an amount equal to double
2 the amount of sales tax involved or incarcerated for not more than
3 sixty (60) days or both;

4 11. Sales of tangible personal property or services to private
5 institutions of higher education and private elementary and
6 secondary institutions of education accredited by the State
7 Department of Education or registered by the State Board of
8 Education for purposes of participating in federal programs or
9 accredited as defined by the Oklahoma State Regents for Higher
10 Education which are exempt from taxation pursuant to the provisions
11 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
12 including materials, supplies, and equipment used in the
13 construction and improvement of buildings and other structures owned
14 by the institutions and operated for educational purposes.

15 Any person, firm, agency or entity making purchases on behalf of
16 any institution, agency or subdivision in this state, shall certify
17 in writing, on the copy of the invoice or sales ticket the nature of
18 the purchases, and violation of this paragraph shall be a
19 misdemeanor as set forth in paragraph 10 of this section;

20 12. Tuition and educational fees paid to private institutions
21 of higher education and private elementary and secondary
22 institutions of education accredited by the State Department of
23 Education or registered by the State Board of Education for purposes
24 of participating in federal programs or accredited as defined by the

Oklahoma State Regents for Higher Education which are exempt from
taxation pursuant to the provisions of the Internal Revenue Code, 26
U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:

- (1) a public school,
- (2) a private school offering instruction for grade
levels kindergarten through twelfth grade,
- (3) a public school district,
- (4) a public or private school board,
- (5) a public or private school student group or
organization,
- (6) a parent-teacher association or organization
other than as specified in subparagraph b of this
paragraph, or
- (7) public or private school personnel for purposes
of raising funds for the benefit of a public or
private school, public school district, public or
private school board or public or private school
student group or organization, or

b. Sales of tangible personal property made by or to
nonprofit parent-teacher associations or organizations
exempt from taxation pursuant to the provisions of the
Internal Revenue Code, 26 U.S.C., Section 501(c)(3)
and before July 1, 2014, nonprofit local public or

1 private school foundations which solicit money or
2 property in the name of any public or private school
3 or public school district.

4 The exemption provided by this paragraph for sales made by a
5 public or private school shall be limited to those public or private
6 schools accredited by the State Department of Education or
7 registered by the State Board of Education for purposes of
8 participating in federal programs. Sale of tangible personal
9 property in this paragraph shall include sale of admission tickets
10 and concessions at athletic events;

11 14. Sales of tangible personal property by:

- 12 a. local 4-H clubs,
- 13 b. county, regional or state 4-H councils,
- 14 c. county, regional or state 4-H committees,
- 15 d. 4-H leader associations,
- 16 e. county, regional or state 4-H foundations, and
- 17 f. authorized 4-H camps and training centers.

18 The exemption provided by this paragraph shall be limited to
19 sales for the purpose of raising funds for the benefit of such
20 organizations. Sale of tangible personal property exempted by this
21 paragraph shall include sale of admission tickets;

22 15. The first Seventy-five Thousand Dollars (\$75,000.00) each
23 year from sale of tickets and concessions at athletic events by each
24

1 organization exempt from taxation pursuant to the provisions of the
2 Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

3 16. Items or services which are subsequently given away by the
4 Oklahoma Tourism and Recreation Department as promotional items
5 pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and
6 the sale of advertising in travel brochures and other promotional
7 materials produced at the direction of the Department;

8 17. Sales of tangible personal property or services to fire
9 departments organized pursuant to Section 592 of Title 18 of the
10 Oklahoma Statutes which items are to be used for the purposes of the
11 fire department. Any person making purchases on behalf of any such
12 fire department shall certify, in writing, on the copy of the
13 invoice or sales ticket to be retained by the vendor that the
14 purchases are made for and on behalf of such fire department and set
15 out the name of such fire department. Any person who wrongfully or
16 erroneously certifies that the purchases are for any such fire
17 department or who otherwise violates the provisions of this section
18 shall be deemed guilty of a misdemeanor and upon conviction thereof,
19 shall be fined an amount equal to double the amount of sales tax
20 involved or incarcerated for not more than sixty (60) days, or both;

21 18. Complimentary or free tickets for admission to places of
22 amusement, sports, entertainment, exhibition, display or other
23 recreational events or activities which are issued through a box
24 office or other entity which is operated by a state institution of

1 higher education with institutional employees or by a municipality
2 with municipal employees;

3 19. The first Fifteen Thousand Dollars (\$15,000.00) each year
4 from sales of tangible personal property by fire departments
5 organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes
6 for the purposes of raising funds for the benefit of the fire
7 department. Fire departments selling tangible personal property for
8 the purposes of raising funds shall be limited to no more than six
9 (6) days each year to raise such funds in order to receive the
10 exemption granted by this paragraph;

11 20. Sales of tangible personal property or services to any Boys
12 & Girls Clubs of America affiliate in this state which is not
13 affiliated with the Salvation Army and which is exempt from taxation
14 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
15 Section 501(c)(3);

16 21. Sales of tangible personal property or services to any
17 organization, which takes court-adjudicated juveniles for purposes
18 of rehabilitation, and which is exempt from taxation pursuant to the
19 provisions of the Internal Revenue Code, 26 U.S.C., Section
20 501(c)(3), provided that at least fifty percent (50%) of the
21 juveniles served by such organization are court adjudicated and the
22 organization receives state funds in an amount less than ten percent
23 (10%) of the annual budget of the organization;

24 22. Sales of tangible personal property or services to:

- 1 a. any ~~federally qualified community~~ health center as
2 defined in Section ~~254e~~ 254b of Title 42 of the United
3 States Code,
- 4 b. ~~any migrant health center as defined in Section 254b~~
5 ~~of Title 42 of the United States Code,~~
- 6 ~~e.~~ any clinic receiving disbursements of state monies
7 from the Indigent Health Care Revolving Fund pursuant
8 to the provisions of Section 66 of Title 56 of the
9 Oklahoma Statutes,
- 10 ~~d.~~
- 11 c. any community-based health center which meets all of
12 the following criteria:
- 13 (1) provides primary care services at no cost to the
14 recipient, and
- 15 (2) is exempt from taxation pursuant to the
16 provisions of Section 501(c)(3) of the Internal
17 Revenue Code, 26 U.S.C., Section 501(c)(3), and
- 18 ~~e.~~
- 19 d. any community mental health center as defined in
20 Section 3-302 of Title 43A of the Oklahoma Statutes;

21 23. Dues or fees, including free or complimentary dues or fees
22 which have a value equivalent to the charge that could have
23 otherwise been made, to YMCAs, YWCAs or municipally-owned recreation
24 centers for the use of facilities and programs;

1 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
2 from sales of tangible personal property or services to or by a
3 cultural organization established to sponsor and promote
4 educational, charitable and cultural events for disadvantaged
5 children, and which organization is exempt from taxation pursuant to
6 the provisions of the Internal Revenue Code, 26 U.S.C., Section
7 501(c) (3);

8 25. Sales of tangible personal property or services to museums
9 or other entities which have been accredited by the American
10 Association of Museums. Any person making purchases on behalf of
11 any such museum or other entity shall certify, in writing, on the
12 copy of the invoice or sales ticket to be retained by the vendor
13 that the purchases are made for and on behalf of such museum or
14 other entity and set out the name of such museum or other entity.
15 Any person who wrongfully or erroneously certifies that the
16 purchases are for any such museum or other entity or who otherwise
17 violates the provisions of this paragraph shall be deemed guilty of
18 a misdemeanor and, upon conviction thereof, shall be fined an amount
19 equal to double the amount of sales tax involved or incarcerated for
20 not more than sixty (60) days, or by both such fine and
21 incarceration;

22 26. Sales of tickets for admission by any museum accredited by
23 the American Association of Museums. In order to be eligible for
24 the exemption provided by this paragraph, an amount equivalent to

1 the amount of the tax which would otherwise be required to be
2 collected pursuant to the provisions of Section 1350 et seq. of this
3 title shall be separately stated on the admission ticket and shall
4 be collected and used for the sole purpose of servicing or aiding in
5 the servicing of debt incurred by the museum to effect the
6 construction, enlarging or renovation of any facility to be used for
7 entertainment, edification or cultural cultivation to which entry is
8 gained with a paid admission ticket;

9 27. Sales of tangible personal property or services occurring
10 on or after June 1, 1995, to children's homes which are supported or
11 sponsored by one or more churches, members of which serve as
12 trustees of the home;

13 28. Sales of tangible personal property or services to the
14 organization known as the Disabled American Veterans, Department of
15 Oklahoma, Inc., and subordinate chapters thereof;

16 29. Sales of tangible personal property or services to youth
17 camps which are supported or sponsored by one or more churches,
18 members of which serve as trustees of the organization;

19 30. Transfer of tangible personal property made pursuant to
20 Section 3226 of Title 63 of the Oklahoma Statutes by the University
21 Hospitals Trust;

22 31. Sales of tangible personal property or services to a
23 municipality, county or school district pursuant to a lease or
24 lease-purchase agreement executed between the vendor and a

1 municipality, county or school district. A copy of the lease or
2 lease-purchase agreement shall be retained by the vendor;

3 32. Sales of tangible personal property or services to any
4 spaceport user, as defined in the Oklahoma Space Industry
5 Development Act;

6 33. The sale, use, storage, consumption, or distribution in
7 this state, whether by the importer, exporter, or another person, of
8 any satellite or any associated launch vehicle, including components
9 of, and parts and motors for, any such satellite or launch vehicle,
10 imported or caused to be imported into this state for the purpose of
11 export by means of launching into space. This exemption provided by
12 this paragraph shall not be affected by:

13 a. the destruction in whole or in part of the satellite
14 or launch vehicle,

15 b. the failure of a launch to occur or be successful, or

16 c. the absence of any transfer or title to, or possession
17 of, the satellite or launch vehicle after launch;

18 34. The sale, lease, use, storage, consumption, or distribution
19 in this state of any space facility, space propulsion system or
20 space vehicle, satellite, or station of any kind possessing space
21 flight capacity, including components thereof;

22 35. The sale, lease, use, storage, consumption, or distribution
23 in this state of tangible personal property, placed on or used
24 aboard any space facility, space propulsion system or space vehicle,

1 satellite, or station possessing space flight capacity, which is
2 launched into space, irrespective of whether such tangible property
3 is returned to this state for subsequent use, storage, or
4 consumption in any manner;

5 36. The sale, lease, use, storage, consumption, or distribution
6 in this state of tangible personal property meeting the definition
7 of "section 38 property" as defined in Sections 48(a)(1)(A) and
8 (B)(i) of the Internal Revenue Code of 1986, that is an integral
9 part of and used primarily in support of space flight; however,
10 section 38 property used in support of space flight shall not
11 include general office equipment, any boat, mobile home, motor
12 vehicle, or other vehicle of a class or type required to be
13 registered, licensed, titled, or documented in this state or by the
14 United States government, or any other property not specifically
15 suited to supporting space activity. The term "in support of space
16 flight", for purposes of this paragraph, means the altering,
17 monitoring, controlling, regulating, adjusting, servicing, or
18 repairing of any space facility, space propulsion systems or space
19 vehicle, satellite, or station possessing space flight capacity,
20 including the components thereof;

21 37. The purchase or lease of machinery and equipment for use at
22 a fixed location in this state, which is used exclusively in the
23 manufacturing, processing, compounding, or producing of any space
24 facility, space propulsion system or space vehicle, satellite, or

1 station of any kind possessing space flight capacity. Provided, the
2 exemption provided for in this paragraph shall not be allowed unless
3 the purchaser or lessee signs an affidavit stating that the item or
4 items to be exempted are for the exclusive use designated herein.
5 Any person furnishing a false affidavit to the vendor for the
6 purpose of evading payment of any tax imposed by Section 1354 of
7 this title shall be subject to the penalties provided by law. As
8 used in this paragraph, "machinery and equipment" means "section 38
9 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the
10 Internal Revenue Code of 1986, which is used as an integral part of
11 the manufacturing, processing, compounding, or producing of items of
12 tangible personal property. Such term includes parts and
13 accessories only to the extent that the exemption thereof is
14 consistent with the provisions of this paragraph;

15 38. The amount of a surcharge or any other amount which is
16 separately stated on an admission ticket which is imposed, collected
17 and used for the sole purpose of constructing, remodeling or
18 enlarging facilities of a public trust having a municipality or
19 county as its sole beneficiary;

20 39. Sales of tangible personal property or services which are
21 directly used in or for the benefit of a state park in this state,
22 which are made to an organization which is exempt from taxation
23 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
24

1 Section 501(c)(3) and which is organized primarily for the purpose
2 of supporting one or more state parks located in this state;

3 40. The sale, lease or use of parking privileges by an
4 institution of The Oklahoma State System of Higher Education;

5 41. Sales of tangible personal property or services for use on
6 campus or school construction projects for the benefit of
7 institutions of The Oklahoma State System of Higher Education,
8 private institutions of higher education accredited by the Oklahoma
9 State Regents for Higher Education or any public school or school
10 district when such projects are financed by or through the use of
11 nonprofit entities which are exempt from taxation pursuant to the
12 provisions of the Internal Revenue Code, 26 U.S.C., Section
13 501(c)(3);

14 42. Sales of tangible personal property or services by an
15 organization which is exempt from taxation pursuant to the
16 provisions of the Internal Revenue Code, 26 U.S.C., Section
17 501(c)(3), in the course of conducting a national championship
18 sports event, but only if all or a portion of the payment in
19 exchange therefor would qualify as the receipt of a qualified
20 sponsorship payment described in Internal Revenue Code, 26 U.S.C.,
21 Section 513(i). Sales exempted pursuant to this paragraph shall be
22 exempt from all Oklahoma sales, use, excise and gross receipts
23 taxes;

1 43. Sales of tangible personal property or services to or by an
2 organization which:

3 a. is exempt from taxation pursuant to the provisions of
4 the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(3),

6 b. is affiliated with a comprehensive university within
7 The Oklahoma State System of Higher Education, and

8 c. has been organized primarily for the purpose of
9 providing education and teacher training and
10 conducting events relating to robotics;

11 44. The first Fifteen Thousand Dollars (\$15,000.00) each year
12 from sales of tangible personal property to or by youth athletic
13 teams which are part of an athletic organization exempt from
14 taxation pursuant to the provisions of the Internal Revenue Code, 26
15 U.S.C., Section 501(c)(4), for the purposes of raising funds for the
16 benefit of the team;

17 45. Sales of tickets for admission to a collegiate athletic
18 event that is held in a facility owned or operated by a municipality
19 or a public trust of which the municipality is the sole beneficiary
20 and that actually determines or is part of a tournament or
21 tournament process for determining a conference tournament
22 championship, a conference championship, or a national championship;

23 46. Sales of tangible personal property or services to or by an
24 organization which is exempt from taxation pursuant to the

1 provisions of the Internal Revenue Code, 26 U.S.C., Section
2 501(c)(3) and is operating the Oklahoma City National Memorial and
3 Museum, an affiliate of the National Park System;

4 47. Sales of tangible personal property or services to
5 organizations which are exempt from federal taxation pursuant to the
6 provisions of Section 501(c)(3) of the Internal Revenue Code, 26
7 U.S.C., Section 501(c)(3), the memberships of which are limited to
8 honorably discharged veterans, and which furnish financial support
9 to area veterans' organizations to be used for the purpose of
10 constructing a memorial or museum;

11 48. Sales of tangible personal property or services on or after
12 January 1, 2003, to an organization which is exempt from taxation
13 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
14 Section 501(c)(3) that is expending monies received from a private
15 foundation grant in conjunction with expenditures of local sales tax
16 revenue to construct a local public library;

17 49. Sales of tangible personal property or services to a state
18 that borders this state or any political subdivision of that state,
19 but only to the extent that the other state or political subdivision
20 exempts or does not impose a tax on similar sales of items to this
21 state or a political subdivision of this state;

22 50. Effective July 1, 2005, sales of tangible personal property
23 or services to the Career Technology Student Organizations under the
24

1 direction and supervision of the Oklahoma Department of Career and
2 Technology Education;

3 51. Sales of tangible personal property to a public trust
4 having either a single city, town or county or multiple cities,
5 towns or counties or combination thereof as beneficiary or
6 beneficiaries or a nonprofit organization which is exempt from
7 taxation pursuant to the provisions of the Internal Revenue Code, 26
8 U.S.C., Section 501(c)(3) for the purpose of constructing
9 improvements to or expanding a hospital or nursing home owned and
10 operated by any such public trust or nonprofit entity prior to the
11 effective date of this act in counties with a population of less
12 than one hundred thousand (100,000) persons, according to the most
13 recent Federal Decennial Census. As used in this paragraph,
14 "constructing improvements to or expanding" shall not mean any
15 expense for routine maintenance or general repairs and shall require
16 a project cost of at least One Hundred Thousand Dollars
17 (\$100,000.00). For purposes of this paragraph, sales made to a
18 contractor or subcontractor that enters into a contractual
19 relationship with a public trust or nonprofit entity as described by
20 this paragraph shall be considered sales made to the public trust or
21 nonprofit entity. The exemption authorized by this paragraph shall
22 be administered in the form of a refund from the sales tax revenues
23 apportioned pursuant to Section 1353 of this title and the vendor
24 shall be required to collect the sales tax otherwise applicable to

1 the transaction. The purchaser may apply for a refund of the sales
2 tax paid in the manner prescribed by this paragraph. Within thirty
3 (30) days after the end of each fiscal year, any purchaser that is
4 entitled to make application for a refund based upon the exempt
5 treatment authorized by this paragraph may file an application for
6 refund of the sales taxes paid during such preceding fiscal year.
7 The Tax Commission shall prescribe a form for purposes of making the
8 application for refund. The Tax Commission shall determine whether
9 or not the total amount of sales tax exemptions claimed by all
10 purchasers is equal to or less than Six Hundred Fifty Thousand
11 Dollars (\$650,000.00). If such claims are less than or equal to
12 that amount, the Tax Commission shall make refunds to the purchasers
13 in the full amount of the documented and verified sales tax amounts.
14 If such claims by all purchasers are in excess of Six Hundred Fifty
15 Thousand Dollars (\$650,000.00), the Tax Commission shall determine
16 the amount of each purchaser's claim, the total amount of all claims
17 by all purchasers, and the percentage each purchaser's claim amount
18 bears to the total. The resulting percentage determined for each
19 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars
20 (\$650,000.00) to determine the amount of refundable sales tax to be
21 paid to each purchaser. The pro rata refund amount shall be the
22 only method to recover sales taxes paid during the preceding fiscal
23 year and no balance of any sales taxes paid on a pro rata basis
24

1 shall be the subject of any subsequent refund claim pursuant to this
2 paragraph;

3 52. Effective July 1, 2006, sales of tangible personal property
4 or services to any organization which assists, trains, educates, and
5 provides housing for physically and mentally handicapped persons and
6 which is exempt from taxation pursuant to the provisions of the
7 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that
8 receives at least eighty-five percent (85%) of its annual budget
9 from state or federal funds. In order to receive the benefit of the
10 exemption authorized by this paragraph, the taxpayer shall be
11 required to make payment of the applicable sales tax at the time of
12 sale to the vendor in the manner otherwise required by law.

13 Notwithstanding any other provision of the Oklahoma Uniform Tax
14 Procedure Code to the contrary, the taxpayer shall be authorized to
15 file a claim for refund of sales taxes paid that qualify for the
16 exemption authorized by this paragraph for a period of one (1) year
17 after the date of the sale transaction. The taxpayer shall be
18 required to provide documentation as may be prescribed by the
19 Oklahoma Tax Commission in support of the refund claim. The total
20 amount of sales tax qualifying for exempt treatment pursuant to this
21 paragraph shall not exceed One Hundred Seventy-five Thousand Dollars
22 (\$175,000.00) each fiscal year. Claims for refund shall be
23 processed in the order in which such claims are received by the
24 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds

1 the total amount of refunds payable for a fiscal year, such claim
2 shall be barred;

3 53. The first Two Thousand Dollars (\$2,000.00) each year of
4 sales of tangible personal property or services to, by, or for the
5 benefit of a qualified neighborhood watch organization that is
6 endorsed or supported by or working directly with a law enforcement
7 agency with jurisdiction in the area in which the neighborhood watch
8 organization is located. As used in this paragraph, "qualified
9 neighborhood watch organization" means an organization that is a
10 not-for-profit corporation under the laws of the State of Oklahoma
11 that was created to help prevent criminal activity in an area
12 through community involvement and interaction with local law
13 enforcement and which is one of the first two thousand organizations
14 which makes application to the Oklahoma Tax Commission for the
15 exemption after the effective date of this act;

16 54. Sales of tangible personal property to a nonprofit
17 organization, exempt from taxation pursuant to the provisions of the
18 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized
19 primarily for the purpose of providing services to homeless persons
20 during the day and located in a metropolitan area with a population
21 in excess of five hundred thousand (500,000) persons according to
22 the latest Federal Decennial Census. The exemption authorized by
23 this paragraph shall be applicable to sales of tangible personal
24

property to a qualified entity occurring on or after January 1,
2005;

55. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for events the principal purpose of which is to provide funding for the preservation of wetlands and habitat for wild ducks;

56. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for events the principal purpose of which is to provide funding for the preservation and conservation of wild turkeys;

57. Sales of tangible personal property or services to an organization which:

a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and

b. is part of a network of community-based, autonomous member organizations that meets the following criteria:

(1) serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,

- (2) has locations in the United States and at least twenty other countries,
- (3) collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and
- (4) provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services;

58. Sales of tickets made on or after September 21, 2005, and complimentary or free tickets for admission issued on or after September 21, 2005, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Basketball Association is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary, and sales of tickets made on or after the effective date of this act, and complimentary or free tickets for admission issued on or after the effective date of this act, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Hockey League is a participant, which is held in a facility owned or

1 operated by a municipality, a county or a public trust of which a
2 municipality or a county is the sole beneficiary;

3 59. Sales of tickets for admission and complimentary or free
4 tickets for admission which have a value equivalent to the charge
5 that would have otherwise been made to a professional sporting event
6 involving ice hockey, baseball, basketball, football or arena
7 football, or soccer. As used in this paragraph, "professional
8 sporting event" means an organized athletic competition between
9 teams that are members of an organized league or association with
10 centralized management, other than a national league or national
11 association, that imposes requirements for participation in the
12 league upon the teams, the individual athletes or both, and which
13 uses a salary structure to compensate the athletes;

14 60. Sales of tickets for admission to an annual event sponsored
15 by an educational and charitable organization of women which is
16 exempt from taxation pursuant to the provisions of the Internal
17 Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its mission
18 promoting volunteerism, developing the potential of women and
19 improving the community through the effective action and leadership
20 of trained volunteers;

21 61. Sales of tangible personal property or services to an
22 organization, which is exempt from taxation pursuant to the
23 provisions of the Internal Revenue Code, 26 U.S.C., Section
24 501(c)(3), and which is itself a member of an organization which is

1 exempt from taxation pursuant to the provisions of the Internal
2 Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership
3 organization is primarily engaged in advancing the purposes of its
4 member organizations through fundraising, public awareness or other
5 efforts for the benefit of its member organizations, and if the
6 member organization is primarily engaged either in providing
7 educational services and programs concerning health-related diseases
8 and conditions to individuals suffering from such health-related
9 diseases and conditions or their caregivers and family members or
10 support to such individuals, or in health-related research as to
11 such diseases and conditions, or both. In order to qualify for the
12 exemption authorized by this paragraph, the member nonprofit
13 organization shall be required to provide proof to the Oklahoma Tax
14 Commission of its membership status in the membership organization;

15 62. Sales of tangible personal property or services to or by an
16 organization which is part of a national volunteer women's service
17 organization dedicated to promoting patriotism, preserving American
18 history and securing better education for children and which has at
19 least 168,000 members in 3,000 chapters across the United States;

20 63. Sales of tangible personal property or services to or by a
21 YWCA or YMCA organization which is part of a national nonprofit
22 community service organization working to meet the health and social
23 service needs of its members across the United States;

1 64. Sales of tangible personal property or services to or by a
2 veteran's organization which is exempt from taxation pursuant to the
3 provisions of the Internal Revenue Code, 26 U.S.C., Section 501
4 (c) (19) and which is known as the Veterans of Foreign Wars of the
5 United States, Oklahoma Chapters;

6 65. Sales of boxes of food by a church or by an organization,
7 which is exempt from taxation pursuant to the provisions of the
8 Internal Revenue Code, 26 U.S.C., Section 501 (c) (3). To qualify
9 under the provisions of this paragraph, the organization must be
10 organized for the primary purpose of feeding needy individuals or to
11 encourage volunteer service by requiring such service in order to
12 purchase food. These boxes shall only contain edible staple food
13 items;

14 66. Sales of tangible personal property or services to any
15 person with whom a church has duly entered into a construction
16 contract, necessary for carrying out such contract or to any
17 subcontractor to such a construction contract;

18 67. Sales of tangible personal property or services used
19 exclusively for charitable or educational purposes, to or by an
20 organization which:

- 21 a. is exempt from taxation pursuant to the provisions of
22 the Internal Revenue Code, 26 U.S.C., Section
23 501 (c) (3),
24

- 1 b. has filed a Not-for-Profit Certificate of
2 Incorporation in this state, and
3 c. is organized for the purpose of:
4 (1) providing training and education to
5 developmentally disabled individuals,
6 (2) educating the community about the rights,
7 abilities and strengths of developmentally
8 disabled individuals, and
9 (3) promoting unity among developmentally disabled
10 individuals in their community and geographic
11 area;

12 68. Sales of tangible personal property or services to any
13 organization which is a shelter for abused, neglected, or abandoned
14 children and which is exempt from taxation pursuant to the
15 provisions of the Internal Revenue Code, 26 U.S.C., Section
16 501(c)(3); provided, until July 1, 2008, such exemption shall apply
17 only to eligible shelters for children from birth to age twelve (12)
18 and after July 1, 2008, such exemption shall apply to eligible
19 shelters for children from birth to age eighteen (18);

20 69. Sales of tangible personal property or services to a child
21 care center which is licensed pursuant to the Oklahoma Child Care
22 Facilities Licensing Act and which:
23
24

- a. possesses a 3-star rating from the Department of Human Services Reaching for the Stars Program or a national accreditation, and
- b. allows on site universal pre-kindergarten education to be provided to four-year-old children through a contractual agreement with any public school or school district.

For the purposes of this paragraph, sales made to any person, firm, agency or entity that has entered previously into a contractual relationship with a child care center for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes shall be considered sales made to a child care center. Any such person, firm, agency or entity making purchases on behalf of a child care center shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchase. Any such person, or person acting on behalf of a firm, agency or entity making purchases on behalf of a child care center in violation of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

70. a. Sales of tangible personal property to a service organization of mothers who have children who are serving or who have served in the military, which

1 service organization is exempt from taxation pursuant
2 to the provisions of the Internal Revenue Code, 26
3 U.S.C., Section 501(c)(19) and which is known as the
4 Blue Star Mothers of America, Inc. The exemption
5 provided by this paragraph shall only apply to the
6 purchase of tangible personal property actually sent
7 to United States military personnel overseas who are
8 serving in a combat zone and not to any other tangible
9 personal property purchased by the organization.
10 Provided, this exemption shall not apply to any sales
11 tax levied by a city, town, county, or any other
12 jurisdiction in this state.

- 13 b. The exemption authorized by this paragraph shall be
14 administered in the form of a refund from the sales
15 tax revenues apportioned pursuant to Section 1353 of
16 this title, and the vendor shall be required to
17 collect the sales tax otherwise applicable to the
18 transaction. The purchaser may apply for a refund of
19 the state sales tax paid in the manner prescribed by
20 this paragraph. Within sixty (60) days after the end
21 of each calendar quarter, any purchaser that is
22 entitled to make application for a refund based upon
23 the exempt treatment authorized by this paragraph may
24 file an application for refund of the state sales

1 taxes paid during such preceding calendar quarter.

2 The Tax Commission shall prescribe a form for purposes
3 of making the application for refund.

4 c. A purchaser who applies for a refund pursuant to this
5 paragraph shall certify that the items were actually
6 sent to military personnel overseas in a combat zone.
7 Any purchaser that applies for a refund for the
8 purchase of items that are not authorized for
9 exemption under this paragraph shall be subject to a
10 penalty in the amount of Five Hundred Dollars
11 (\$500.00);

12 71. Sales of food and snack items to or by an organization
13 which is exempt from taxation pursuant to the provisions of the
14 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), whose primary
15 and principal purpose is providing funding for scholarships in the
16 medical field;

17 72. Sales of tangible personal property or services for use
18 solely on construction projects for organizations which are exempt
19 from taxation pursuant to the provisions of the Internal Revenue
20 Code, 26 U.S.C., Section 501(c)(3) and whose purpose is providing
21 end-of-life care and access to hospice services to low-income
22 individuals who live in a facility owned by the organization. The
23 exemption provided by this paragraph applies to sales to the
24 organization as well as to sales to any person with whom the

1 organization has duly entered into a construction contract,
2 necessary for carrying out such contract or to any subcontractor to
3 such a construction contract. Any person making purchases on behalf
4 of such organization shall certify, in writing, on the copy of the
5 invoice or sales ticket to be retained by the vendor that the
6 purchases are made for and on behalf of such organization and set
7 out the name of such organization. Any person who wrongfully or
8 erroneously certifies that purchases are for any of the above-named
9 organizations or who otherwise violates this section shall be guilty
10 of a misdemeanor and upon conviction thereof shall be fined an
11 amount equal to double the amount of sales tax involved or
12 incarcerated for not more than sixty (60) days or both;

13 73. Sales of tickets for admission to events held by
14 organizations exempt from taxation pursuant to the provisions of the
15 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that are
16 organized for the purpose of supporting general hospitals licensed
17 by the State Department of Health; and

18 74. Sales of tangible personal property or services:

19 a. to a foundation which is exempt from taxation pursuant
20 to the provisions of the Internal Revenue Code, 26
21 U.S.C., Section 501(c)(3) and which raises tax-
22 deductible contributions in support of a wide range of
23 firearms-related public interest activities of the
24 National Rifle Association of America and other

1 organizations that defend and foster Second Amendment
2 rights, and

3 b. to or by a grassroots fundraising program for sales
4 related to events to raise funds for a foundation
5 meeting the qualifications of subparagraph a of this
6 paragraph.

7 SECTION 4. AMENDATORY 68 O.S. 2011, Section 1359, is
8 amended to read as follows:

9 Section 1359. Exemptions - Manufacturing.

10 There are hereby specifically exempted from the tax levied by
11 Section 1350 et seq. of this title:

12 1. Sales of goods, wares, merchandise, tangible personal
13 property, machinery and equipment to a manufacturer for use in a
14 manufacturing operation. Goods, wares, merchandise, property,
15 machinery and equipment used in a nonmanufacturing activity or
16 process as set forth in paragraph ~~9~~ 14 of Section 1352 of this title
17 shall not be eligible for the exemption provided for in this
18 subsection by virtue of the activity or process being performed in
19 conjunction with or integrated into a manufacturing operation.

20 For the purposes of this paragraph, sales made to any person,
21 firm or entity that has entered into a contractual relationship for
22 the construction and improvement of manufacturing goods, wares,
23 merchandise, property, machinery and equipment for use in a
24 manufacturing operation shall be considered sales made to a

1 manufacturer which is defined or classified in the North American
2 Classification System (NAICS) Manual under Industry Group No.
3 324110. Such purchase shall be evidenced by a copy of the sales
4 ticket or invoice to be retained by the vendor indicating that the
5 purchases are made for and on behalf of such manufacturer and set
6 out the name of such manufacturer as well as include a copy of the
7 Manufacturing Exemption Permit of the manufacturer. Any person who
8 wrongfully or erroneously certifies that purchases are being made on
9 behalf of such manufacturer or who otherwise violates this paragraph
10 shall be guilty of a misdemeanor and upon conviction thereof shall
11 be fined an amount equal to double the amount of sales tax involved
12 or incarcerated for not more than sixty (60) days or both;

13 2. Ethyl alcohol when sold and used for the purpose of blending
14 same with motor fuel on which motor fuel tax is levied by Section
15 500.4 of this title;

16 3. Sales of containers when sold to a person regularly engaged
17 in the business of reselling empty or filled containers or when
18 purchased for the purpose of packaging raw products of farm, garden,
19 or orchard for resale to the consumer or processor. This exemption
20 shall not apply to the sale of any containers used more than once
21 and which are ordinarily known as returnable containers, except
22 returnable soft drink bottles and the cartons, crates, pallets, and
23 containers used to transport returnable soft drink bottles. Each
24 and every transfer of title or possession of such returnable

1 containers in this state to any person who is not regularly engaged
2 in the business of selling, reselling or otherwise transferring
3 empty or filled containers shall be taxable under this Code.

4 Additionally, this exemption shall not apply to the sale of labels
5 or other materials delivered along with items sold but which are not
6 necessary or absolutely essential to the sale of the sold
7 merchandise;

8 4. Sales of or transfers of title to or possession of any
9 containers, after June 30, 1987, used or to be used more than once
10 and which are ordinarily known as returnable containers and which do
11 or will contain beverages defined by paragraphs 4 and 14 of Section
12 506 of Title 37 of the Oklahoma Statutes, or water for human
13 consumption and the cartons, crates, pallets, and containers used to
14 transport such returnable containers;

15 5. Sale of tangible personal property when sold by the
16 manufacturer to a person who transports it to a state other than
17 Oklahoma for immediate and exclusive use in a state other than
18 Oklahoma. Provided, no sales at a retail outlet shall qualify for
19 the exemption under this paragraph;

20 6. Machinery, equipment, fuels and chemicals or other materials
21 incorporated into and directly used or consumed in the process of
22 treatment to substantially reduce the volume or harmful properties
23 of hazardous waste at treatment facilities specifically permitted
24 pursuant to the Oklahoma Hazardous Waste Management Act and operated

1 at the place of waste generation, or facilities approved by the
2 Department of Environmental Quality for the cleanup of a site of
3 contamination. The term "hazardous" waste may include low-level
4 radioactive waste for the purpose of this paragraph;

5 7. Except as otherwise provided by subsection I of Section 3658
6 of this title pursuant to which the exemption authorized by this
7 paragraph may not be claimed, sales of tangible personal property to
8 a qualified manufacturer or distributor to be consumed or
9 incorporated in a new manufacturing or distribution facility or to
10 expand an existing manufacturing or distribution facility. For
11 purposes of this paragraph, sales made to a contractor or
12 subcontractor that has previously entered into a contractual
13 relationship with a qualified manufacturer or distributor for
14 construction or expansion of a manufacturing or distribution
15 facility shall be considered sales made to a qualified manufacturer
16 or distributor. For the purposes of this paragraph, "qualified
17 manufacturer or distributor" means:

18 a. any manufacturing enterprise whose total cost of
19 construction of a new or expanded facility exceeds the
20 sum of Five Million Dollars (\$5,000,000.00) and in
21 which at least one hundred (100) new full-time-
22 equivalent employees, as certified by the Oklahoma
23 Employment Security Commission, are added and
24 maintained for a period of at least thirty-six (36)

1 months as a direct result of the new or expanded
2 facility,

3 b. any manufacturing enterprise whose total cost of
4 construction of a new or expanded facility exceeds the
5 sum of Ten Million Dollars (\$10,000,000.00) and the
6 combined cost of construction material, machinery,
7 equipment and other tangible personal property exempt
8 from sales tax under the provisions of this paragraph
9 exceeds the sum of Fifty Million Dollars
10 (\$50,000,000.00) and in which at least seventy-five
11 (75) new full-time-equivalent employees, as certified
12 by the Oklahoma Employment Security Commission, are
13 added and maintained for a period of at least thirty-
14 six (36) months as a direct result of the new or
15 expanded facility,

16 c. any manufacturing enterprise whose total cost of
17 construction of an expanded facility exceeds the sum
18 of Three Hundred Million Dollars (\$300,000,000.00) and
19 in which the manufacturer has and maintains an average
20 employment level of at least one thousand seven
21 hundred fifty (1,750) full-time-equivalent employees,
22 as certified by the Employment Security Commission, or

23 d. any enterprise primarily engaged in the general
24 wholesale distribution of groceries defined or

1 classified in the North American Industry
2 Classification System (NAICS) Manual under Industry
3 Groups No. 4244 and 4245 and which has at least
4 seventy-five percent (75%) of its total sales to in-
5 state customers or buyers and whose total cost of
6 construction of a new or expanded facility exceeds the
7 sum of Forty Million Dollars (\$40,000,000.00) with
8 such construction commencing on or after July 1, 2005,
9 and before December 31, 2005, and which at least fifty
10 new full-time-equivalent employees, as certified by
11 the Oklahoma Employment Security Commission, are added
12 and maintained for a period of at least thirty-six
13 (36) months as a direct result of the new or expanded
14 facility.

15 For purposes of this paragraph, the total cost of construction
16 shall include building and construction material and engineering and
17 architectural fees or charges directly associated with the
18 construction of a new or expanded facility. The total cost of
19 construction shall not include attorney fees. For purposes of
20 subparagraph c of this paragraph, the total cost of construction
21 shall also include the cost of qualified depreciable property as
22 defined in Section 2357.4 of this title and labor services performed
23 in the construction of an expanded facility. For the purpose of
24 subparagraph d of this paragraph, the total cost of construction

1 shall also include the cost of all parking, security and dock
2 structures or facilities necessary to manage, process or secure
3 vehicles used to receive and/or distribute groceries through such a
4 facility. The employment requirement of this paragraph can be
5 satisfied by the employment of a portion of the required number of
6 new full-time-equivalent employees at a manufacturing or
7 distribution facility that is related to or supported by the new or
8 expanded manufacturing or distribution facility as long as both
9 facilities are owned by one person or business entity. For purposes
10 of this section, "manufacturing facility" shall mean building and
11 land improvements used in manufacturing as defined in Section 1352
12 of this title and shall also mean building and land improvements
13 used for the purpose of packing, repackaging, labeling or assembling
14 for distribution to market, products at least seventy percent (70%)
15 of which are made in Oklahoma by the same company but at an off-
16 site, in-state manufacturing or distribution facility or facilities.
17 It shall not include a retail outlet unless the retail outlet is
18 operated in conjunction with and on the same site or premises as the
19 manufacturing facility. Up to ten percent (10%) of the square feet
20 of a manufacturing or distribution facility building may be devoted
21 to office space used to provide clerical support for the
22 manufacturing operation. Such ten percent (10%) may be in a
23 separate building as long as it is part of the same contiguous tract
24 of property on which the manufacturing or distribution facility is

1 located. Only sales of tangible personal property made after June
2 1, 1988, shall be eligible for the exemption provided by this
3 paragraph. The exemption authorized pursuant to subparagraph d of
4 this paragraph shall only become effective when the governing body
5 of the municipality in which the enterprise is located approves a
6 resolution expressing the municipality's support for the
7 construction for such new or expanded facility. Upon approval by
8 the municipality, the municipality shall forward a copy of such
9 resolution to the Oklahoma Tax Commission;

10 8. Sales of tangible personal property purchased and used by a
11 licensed radio or television station in broadcasting. This
12 exemption shall not apply unless such machinery and equipment is
13 used directly in the manufacturing process, is necessary for the
14 proper production of a broadcast signal or is such that the failure
15 of the machinery or equipment to operate would cause broadcasting to
16 cease. This exemption begins with the equipment used in producing
17 live programming or the electronic equipment directly behind the
18 satellite receiving dish or antenna, and ends with the transmission
19 of the broadcast signal from the broadcast antenna system. For
20 purposes of this paragraph, "proper production" shall include, but
21 not be limited to, machinery or equipment required by Federal
22 Communications Commission rules and regulations;

23 9. Sales of tangible personal property purchased or used by a
24 licensed cable television operator in cablecasting. This exemption

1 shall not apply unless such machinery and equipment is used directly
2 in the manufacturing process, is necessary for the proper production
3 of a cablecast signal or is such that the failure of the machinery
4 or equipment to operate would cause cablecasting to cease. This
5 exemption begins with the equipment used in producing local
6 programming or the electronic equipment behind the satellite
7 receiving dish, microwave tower or antenna, and ends with the
8 transmission of the signal from the cablecast head-end system. For
9 purposes of this paragraph, "proper production" shall include, but
10 not be limited to, machinery or equipment required by Federal
11 Communications Commission rules and regulations;

12 10. Sales of packaging materials for use in packing, shipping
13 or delivering tangible personal property for sale when sold to a
14 producer of agricultural products. This exemption shall not apply
15 to the sale of any packaging material which is ordinarily known as a
16 returnable container;

17 11. Sales of any pattern used in the process of manufacturing
18 iron, steel or other metal castings. The exemption provided by this
19 paragraph shall be applicable irrespective of ownership of the
20 pattern provided that such pattern is used in the commercial
21 production of metal castings;

22 12. Deposits or other charges made and which are subsequently
23 refunded for returnable cartons, crates, pallets, and containers
24 used to transport cement and cement products;

1 13. Beginning January 1, 1998, machinery, electricity, fuels,
2 explosives and materials, excluding chemicals, used in the mining of
3 coal in this state;

4 14. Deposits, rent or other charges made for returnable
5 cartons, crates, pallets, and containers used to transport mushrooms
6 or mushroom products from a farm for resale to the consumer or
7 processor; and

8 15. Sales of tangible personal property and services used or
9 consumed in all phases of the extraction and manufacturing of
10 crushed stone and sand, including but not limited to site
11 preparation, dredging, overburden removal, explosive placement and
12 detonation, onsite material hauling and/or transfer, material
13 washing, screening and/or crushing, product weighing and site
14 reclamation.

15 SECTION 5. REPEALER 68 O.S. 2011, Section 1368.2, is
16 hereby repealed.

17 SECTION 6. This act shall become effective July 1, 2013.

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

22
23 54-1-8067 MAH 05/09/13
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