

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2040

By: McCall

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 1357, as last amended by Section 1, Chapter 241, O.S.L. 2019 (68 O.S. Supp. 2020, Section 1357), which relates to sales tax exemptions; providing for sales tax exemption with respect to certain equipment used for broadband access; providing exemption administered as rebate; defining term; requiring net increase in number of customers; prescribing maximum total rebate amounts per year; providing for reserved rebate pool amounts based upon county population density; providing for computation of rebate amounts; providing for allocation formula with respect to rebate claims filed for certain period of time; providing for implementation of allocation formula based on recommendations of Rural Broadband Expansion Council; providing for termination of exemption based upon absence of formula; prescribing procedures with respect to filing of claims; requiring forms; requiring documentation; requiring broadband services to be provided for certain length of time; requiring Oklahoma Department of Commerce to prepare report; prescribing content of report; requiring filing of report with Governor, Speaker of the Oklahoma House of Representatives and President Pro Tempore of Oklahoma State Senate; requiring website posting; providing for codification; providing an effective date; and declaring an emergency.

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

2 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1357, as
3 last amended by Section 1, Chapter 241, O.S.L. 2019 (68 O.S. Supp.
4 2020, Section 1357), is amended to read as follows:

5 Section 1357. Exemptions - General.

6 There are hereby specifically exempted from the tax levied by
7 the Oklahoma Sales Tax Code:

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

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

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

1 Group Five vendor, but the use of such motor fuel or diesel fuel by
2 the Group Five vendor shall not be exempt from the tax levied by the
3 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
4 is exempt from sales tax when the motor fuel is for shipment outside
5 this state and consumed by a common carrier by rail in the conduct
6 of its business. The sales tax shall apply to the purchase of motor
7 fuel or diesel fuel in Oklahoma by a common carrier by rail when
8 such motor fuel is purchased for fueling, within this state, of any
9 locomotive or other motorized flanged wheel equipment;

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

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

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

1 and cable and satellite television, and the servicing of any
2 advertising devices;

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

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

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

1 prescribe the drugs, and sales of insulin and medical oxygen.

2 Provided, this exemption shall not apply to over-the-counter drugs;

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

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

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

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

- 23 a. 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 provides and
2 delivers prepared meals for home consumption to
3 elderly or homebound persons as part of a program
4 commonly known as "Meals on Wheels" or "Mobile Meals",
5 or

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

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

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

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

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

7 15. Sales of tangible personal property or services to
8 children's homes which are located on church-owned property and are
9 operated by organizations exempt from taxation pursuant to the
10 provisions of the Internal Revenue Code, 26 U.S.C., Section
11 501(c) (3);

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

1 manufacturing facility shall equal or exceed the sum of Two Million
2 Dollars (\$2,000,000.00);

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

12 18. Sales of the following telecommunications services:

13 a. Interstate and International "800 service". "800
14 service" means a "telecommunications service" that
15 allows a caller to dial a toll-free number without
16 incurring a charge for the call. The service is
17 typically marketed under the name "800", "855", "866",
18 "877", and "888" toll-free calling, and any subsequent
19 numbers designated by the Federal Communications
20 Commission, or

21 b. Interstate and International "900 service". "900
22 service" means an inbound toll "telecommunications
23 service" purchased by a subscriber that allows the
24 subscriber's customers to call in to the subscriber's

1 prerecorded announcement or live service. "900
2 service" does not include the charge for: collection
3 services provided by the seller of the
4 "telecommunications services" to the subscriber, or
5 service or product sold by the subscriber to the
6 subscriber's customer. The service is typically
7 marketed under the name "900" service, and any
8 subsequent numbers designated by the Federal
9 Communications Commission,

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

21 d. "Value-added nonvoice data service". "Value-added
22 nonvoice data service" means a service that otherwise
23 meets the definition of "telecommunications services"
24 in which computer processing applications are used to

1 act on the form, content, code, or protocol of the
2 information or data primarily for a purpose other than
3 transmission, conveyance or routing,

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

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

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

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

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

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

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

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

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

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

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

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

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

19 23. Sales of tangible personal property or services to a motion
20 picture or television production company to be used or consumed in
21 connection with an eligible production. For purposes of this
22 paragraph, "eligible production" means a documentary, special, music
23 video, or a television commercial or television program that will
24 serve as a pilot for or be a segment of an ongoing dramatic or

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

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

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

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

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

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

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

10 a. are loaded on the ship, motor vessel or barge and used
11 in the maintenance and operation of the ship, motor
12 vessel or barge, or

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

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

22 a. such sale or event may not be held for a period
23 exceeding three (3) consecutive days,
24

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

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

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

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

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

1 motor vehicle excise tax imposed pursuant to Section 2103 of this
2 title;

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

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

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

1 after the use of enhanced recovery methods shall not exceed one
2 percent (1%) by volume. The exemption authorized by this paragraph
3 shall be applicable only to the state sales tax rate and shall not
4 be applicable to any county or municipal sales tax rate;

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

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

21 38. Sales of goods, wares, merchandise, tangible personal
22 property, machinery and equipment to a web search portal located in
23 this state which derives at least eighty percent (80%) of its annual
24 gross revenue from the sale of a product or service to an out-of-

1 state buyer or consumer. For purposes of this paragraph, "web
2 search portal" means an establishment classified under NAICS code
3 519130 which operates websites that use a search engine to generate
4 and maintain extensive databases of Internet addresses and content
5 in an easily searchable format;

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

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

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

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

20 43. Subject to the other requirements of this paragraph and the
21 requirements of Section 2 of this act, sales of qualifying broadband
22 equipment which shall include, but not be limited to, the following:

23 a. for all networks:

24 (1) fiber optic cable and conduit,

1 (2) Internet routers,

2 (3) Internet switches, and

3 (4) enclosures,

4 b. for fiber-to-the-premises networks:

5 (1) optical line terminals,

6 (2) optical network terminals, and

7 (3) fiber splitters,

8 c. for digital subscriber line networks:

9 (1) digital subscriber line access multiplexers, and

10 (2) digital subscriber lines modems, and

11 d. for fixed wireless networks:

12 (1) radio access points, and

13 (2) base station radios.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1357.21 of Title 68, unless
16 there is created a duplication in numbering, reads as follows:

17 A. The exemption authorized by the provisions of paragraph 43
18 of Section 1357 of Title 68 of the Oklahoma Statutes shall be
19 administered as a rebate.

20 B. No claim for a rebate shall be approved unless the equipment
21 was purchased in order to establish or expand broadband services in
22 underserved or unserved areas. As used in this subsection and for
23 purposes of the exemption authorized by paragraph 43 of Section 1357
24 of Title 68 of the Oklahoma Statutes, "broadband" shall mean those

1 services and underlying facilities that provide access to and from
2 the Internet of continuous speeds of at least twenty-five (25)
3 megabits per second (Mbps) downstream, from the provider to the
4 customer, and continuous speeds of at least three (3) megabits per
5 second (Mbps) upstream, from the customer to the provider, using
6 fixed, terrestrial facilities, including, but not limited to,
7 wireless, copper wire, fiber optic cable, or coaxial cable, to
8 provide such service. The minimum Internet speeds listed in this
9 subsection shall be subject to change or update when or if the
10 Federal Communications Commission makes new rulings related to its
11 definition of broadband.

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

16 D. For the tax year beginning January 1, 2022, the total amount
17 of rebates that may be paid shall not exceed Twenty Million Dollars
18 (\$20,000,000.00) with Fifteen Million Dollars (\$15,000,000.00) of
19 the total reserved for eligible projects located in counties having
20 a population density of fewer than one hundred (100) persons per
21 square mile and Five Million Dollars (\$5,000,000.00) of the total
22 reserved for eligible projects located in counties having a
23 population density of one hundred (100) or more persons per square
24 mile.

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

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

19 G. Claims for rebate shall be on such forms as the Oklahoma Tax
20 Commission may prescribe for such purpose and shall contain any
21 required information or supporting documentation the Commission
22 requires to verify eligibility for the rebate payment.

23 H. No rebate shall be paid until customers served as a result
24 of the use of the equipment have had qualifying broadband service

1 for at least six (6) consecutive months as of the date the claim for
2 rebate is submitted.

3 I. The Oklahoma Department of Commerce and the Rural Broadband
4 Expansion Council shall use information provided by the Oklahoma Tax
5 Commission to prepare a report to identify the qualifying rural
6 broadband projects completed with the equipment purchased together
7 with the location of the equipment and the geographic areas served
8 as a result of the equipment purchases, including the total number
9 of potential new customers receiving qualifying broadband services
10 resulting from the project.

11 J. The report shall be filed not later than September 1, 2023,
12 with respect to rebates paid for tax year 2022.

13 K. The report shall be filed with the Governor, the Speaker of
14 the Oklahoma House of Representatives and the President Pro Tempore
15 of the Oklahoma State Senate and posted on the Rural Broadband
16 Expansion Council website maintained by the Oklahoma Department of
17 Commerce.

18 SECTION 3. This act shall become effective July 1, 2021.

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

23
24 58-1-7776 JM 02/25/21