

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1473

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to sales tax; amending 68 O.S. 2021,
8 Section 1357, as amended by Section 1, Chapter 68,
9 O.S.L. 2021, which relates to exemptions; providing
10 exemption for groceries; providing certain
11 exceptions; defining terms; providing exception for
12 certain political subdivisions; amending 68 O.S.
2021, Section 1370, which relates to county sales
13 tax; providing exception to requirement that all
14 items exempt from the state sales tax be exempt from
15 county sales tax; and providing an effective date.

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

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

20 Section 1357. Exemptions - General. There are hereby
21 specifically exempted from the tax levied by the Oklahoma Sales Tax
22 Code:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 b. is exempt from taxation pursuant to the provisions of
24 Section 501(c)(3) of the Internal Revenue Code, 26

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

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

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

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

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

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

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

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

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

6 18. Sales of the following telecommunications services:

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

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

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

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

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

22 e. Interstate and International telecommunications
23 service which is:
24

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

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

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

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

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

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

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

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

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

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

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

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

14 23. Sales of tangible personal property or services to a motion
15 picture or television production company to be used or consumed in
16 connection with an eligible production. For purposes of this
17 paragraph, "eligible production" means a documentary, special, music
18 video, or a television commercial or television program that will
19 serve as a pilot for or be a segment of an ongoing dramatic or
20 situation comedy series filmed or taped for network or national or
21 regional syndication or a feature-length motion picture intended for
22 theatrical release or for network or national or regional
23 syndication or broadcast. The provisions of this paragraph shall
24 apply to sales occurring on or after July 1, 1996. In order to

1 qualify for the exemption, the motion picture or television
2 production company shall file any documentation and information
3 required to be submitted pursuant to rules promulgated by the Tax
4 Commission;

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

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

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

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

20 28. Beginning July 1, 2005, sales of aircraft engine repairs,
21 modification, and replacement parts, sales of aircraft frame repairs
22 and modification, aircraft interior modification, and paint, and
23 sales of services employed in the repair, modification, and
24

1 replacement of parts of aircraft engines, aircraft frame and
2 interior repair and modification, and paint;

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

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

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

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

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

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

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

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

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

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

22 34. Sales of tangible personal property or services to persons
23 who are residents of Oklahoma and have been honorably discharged
24 from active service in any branch of the Armed Forces of the United
25 States;

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

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

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

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

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

17 38. Sales of goods, wares, merchandise, tangible personal
18 property, machinery, and equipment to a web search portal located in
19 this state which derives at least eighty percent (80%) of its annual
20 gross revenue from the sale of a product or service to an out-of-
21 state buyer or consumer. For purposes of this paragraph, "web
22 search portal" means an establishment classified under NAICS code
23 519130 which operates websites that use a search engine to generate
24

1 and maintain extensive databases of Internet addresses and content
2 in an easily searchable format;

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

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

22 41. On or after July 1, 2019, and prior to July 1, 2024, sales
23 or leases of rolling stock when sold or leased by the manufacturer,
24 regardless of whether the purchaser is a public services corporation

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

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

17 43. Until January 2027, sales of commercial forestry service
18 equipment, limited to forwarders, fellers, bunchers, track skidders,
19 wheeled skidders, hydraulic excavators, delimiters, soil compactors
20 and skid steer loaders, to businesses engaged in logging, timber,
21 and tree farming; and

22 44. a. Beginning January 1, 2023, groceries, except:

23 (1) for calendar year 2023, three and fifty-
24 hundredths percent (3.5%) of the gross receipts

1 upon which the tax is levied by Section 1354 of
2 Title 68 of the Oklahoma Statutes,

3 (2) for calendar year 2024, two and fifty-hundredths
4 percent (2.5%) of the gross receipts upon which
5 the tax is levied by Section 1354 of Title 68 of
6 the Oklahoma Statutes, and

7 (3) for calendar year 2025, one and fifty-hundredths
8 percent (1.5%) of the gross receipts upon which
9 the tax is levied by Section 1354 of Title 68 of
10 the Oklahoma Statutes.

11 b. For the purposes of this paragraph:

12 (1) "bottled water" means water that is placed in a
13 safety sealed container or package for human
14 consumption including water that is delivered to
15 the buyer in a reusable container that is not
16 sold with the water. Bottled water shall be
17 calorie free and shall not contain sweeteners or
18 other additives, except that it may contain:

19 (a) antimicrobial agents,

20 (b) fluoride,

21 (c) carbonation,

22 (d) vitamins, minerals, and electrolytes,

23 (e) oxygen,

24 (f) preservatives, and

1 (g) only those flavors, extracts, or essences
2 derived from spice or fruit,

3 (2) "candy" means a preparation of sugar, honey, or
4 other natural or artificial sweeteners in
5 combination with chocolate, fruits, nuts, or
6 other ingredients or flavorings in the form of
7 bars, drops, or pieces. Candy shall not include
8 any preparation containing flour or require
9 refrigeration,

10 (3) "dietary supplement" means any product, other
11 than tobacco, intended to supplement the diet
12 that:

13 (a) contains one or more of the following
14 dietary ingredients:

15 i. a vitamin,

16 ii. a mineral,

17 iii. an herb or other botanical,

18 iv. an amino acid,

19 v. a dietary substance for use by humans

20 to supplement the diet by increasing

21 the total dietary intake, or

22 vi. a concentrate, metabolite, constituent,

23 extract, or combination of any

24 ingredient described in this division,

1 (b) is intended for ingestion in tablet,
2 capsule, powder, softgel, gelcap, or liquid
3 form, or if not intended for ingestion in
4 such a form, is not represented as
5 conventional food and is not represented for
6 use as a sole item of a meal or of the diet,
7 and

8 (c) is required to be labeled as a dietary
9 supplement, identifiable by the
10 "Supplemental Facts" box found on the label
11 as required pursuant to 21 CFR, Part 101.36,

12 (4) "food and food ingredients" mean substances,
13 whether in liquid, concentrated, solid, frozen,
14 dried, or dehydrated form, that are sold for
15 ingestion or chewing by humans and are consumed
16 for their taste or nutritional value. Food and
17 food ingredients shall not include alcoholic
18 beverages, dietary supplements, bottled water,
19 candy, soft drinks, or tobacco,

20 (5) "groceries" mean food and food ingredients and
21 bottled water. Groceries shall not mean prepared
22 food, except for:

1 (a) food sold by a seller whose primary NAICS
2 classification is manufacturing in sector
3 311, except subsector 3118,

4 (b) food sold in an unheated state by weight or
5 volume as a single item,

6 (c) bakery items including bread rolls, buns,
7 biscuits, bagels, croissants, pastries,
8 donuts, Danish, cakes, tortes, pies, tarts,
9 muffins, bars, cookies, and tortillas, and

10 (d) food sold that ordinarily requires
11 additional cooking, not including just
12 reheating, by the consumer prior to
13 consumption,

14 (6) "prepared food" means:

15 (a) food sold in a heated state or heated by the
16 seller,

17 (b) two or more food ingredients mixed or
18 combined by the seller for sale as a single
19 item, or

20 (c) food sold with eating utensils provided by
21 the seller including plates, knives, forks,
22 spoons, glasses, cups, napkins, or straws,
23 but does not include a container or
24 packaging used to transport the food.

1 "Prepared food" shall not include soft drinks, dietary
2 supplements, or candy, and

3 (7) "soft drinks" means non-alcoholic beverages that
4 contain natural or artificial sweeteners, but
5 does not include beverages that contain milk or
6 milk products, soy, rice, or similar milk
7 substitutes, or greater than fifty percent (50%)
8 of vegetable or fruit juice by volume.

9 The exemption provided in this paragraph shall not apply to any
10 sales tax levied by a city or town, or a county, or any other
11 jurisdiction in this state.

12 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1370, is
13 amended to read as follows:

14 Section 1370. A. In accordance with the provisions of Section
15 1 of this act, any county of this state may levy a sales tax of not
16 to exceed two percent (2%) upon the gross proceeds or gross receipts
17 derived from all sales or services in the county upon which a
18 consumer's sales tax is levied by this state. Before a sales tax
19 may be levied by the county, the imposition of the tax shall first
20 be approved by a majority of the registered voters of the county
21 voting thereon at a special election called by the board of county
22 commissioners or by initiative petition signed by not less than five
23 percent (5%) of the registered voters of the county who were
24 registered at the time of the last general election. However, if a

1 majority of the registered voters of a county voting fail to approve
2 such a tax, the board of county commissioners shall not call another
3 special election for such purpose for six (6) months. Any sales tax
4 approved by the registered voters of a county shall be applicable
5 only when the point of sale is within the territorial limits of such
6 county. Any sales tax levied or any change in the rate of a sales
7 tax levied pursuant to the provisions of this section shall become
8 effective on the first day of the calendar quarter following
9 approval by the voters of the county unless another effective date,
10 which shall also be on the first day of a calendar quarter, is
11 specified in the ordinance or resolution levying the sales tax or
12 changing the rate of sales tax.

13 B. The Oklahoma Tax Commission shall give notice to all vendors
14 of a rate change at least sixty (60) days prior to the effective
15 date of the rate change. Provided, for purchases from printed
16 catalogs wherein the purchaser computed the tax based upon local tax
17 rates published in the catalog, the rate change shall not be
18 effective until the first day of a calendar quarter after a minimum
19 of one hundred twenty (120) days' notice to vendors. Failure to
20 give notice as required by this section shall delay the effective
21 date of the rate change to the first day of the next calendar
22 quarter.

23 C. Initiative petitions calling for a special election
24 concerning county sales tax proposals shall be in accordance with
25

1 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma
2 Statutes. Petitions shall be submitted to the office of county
3 clerk for approval as to form prior to circulation. Following
4 approval, the petitioner shall have ninety (90) days to secure the
5 required signatures. After securing the requisite number of
6 signatures, the petitioner shall submit the petition and signatures
7 to the county clerk. Following the verification of signatures, the
8 county clerk shall present the petition to the board of county
9 commissioners. The special election shall be held within sixty (60)
10 days of receiving the petition. The ballot title presented to the
11 voters at the special election shall be identical to the ballot as
12 presented in the initiative petition.

13 D. Subject to the provisions of Section 1357.10 of this title,
14 all items that are exempt from the state sales tax shall be exempt
15 from any sales tax levied by a county; provided, the provisions of
16 this subsection shall not apply to paragraph 44 of Section 1 of this
17 act.

18 E. Any sales tax which may be levied by a county shall be
19 designated for a particular purpose. Such purposes may include, but
20 are not limited to, projects owned by the state, any agency or
21 instrumentality thereof, the county and/or any political subdivision
22 located in whole or in part within such county, regional
23 development, economic development, common education, general
24 operations, capital improvements, county roads, weather modification

1 or any other purpose deemed, by a majority vote of the county
2 commissioners or as stated by initiative petition, to be necessary
3 to promote safety, security and the general well-being of the
4 people, including any authorized purpose pursuant to the Oklahoma
5 Community Economic Development Pooled Finance Act. The county shall
6 identify the purpose of the sales tax when it is presented to the
7 voters pursuant to the provisions of subsection A of this section.
8 Except as otherwise provided in this section and except as required
9 by the Oklahoma Community Economic Development Pooled Finance Act,
10 the proceeds of any sales tax levied by a county shall be deposited
11 in the general revenue or sales tax revolving fund of the county and
12 shall be used only for the purpose for which such sales tax was
13 designated. If the proceeds of any sales tax levied by a county
14 pursuant to this section are pledged for the purpose of retiring
15 indebtedness incurred for the specific purpose for which the sales
16 tax is imposed, the sales tax shall not be repealed until such time
17 as the indebtedness is retired. However, in no event shall the life
18 of the tax be extended beyond the duration approved by the voters of
19 the county.

20 F. 1. Notwithstanding any other provisions of law, any county
21 that has approved a sales tax for the construction, support or
22 operation of a county hospital may continue to collect such tax if
23 such hospital is subsequently sold. Such collection shall only
24 continue if the county remains indebted for the past construction,

1 support or operation of such hospital. The collection may continue
2 only until the debt is repaid or for the stated term of the sales
3 tax, whichever period is shorter.

4 2. If the construction, support or operation of a hospital is
5 funded through the levy of a county sales tax pursuant to this
6 section and such hospital is subsequently sold, the county levying
7 the tax may dissolve the governing board of such hospital following
8 the sale. Upon the sale of the hospital and dissolution of any
9 governing board, the county is relieved of any future liability for
10 the operation of such hospital.

11 G. Proceeds from any sales tax levied that is designated to be
12 used solely by the sheriff for the operation of the office of
13 sheriff shall be placed in the special revenue account of the
14 sheriff.

15 H. The life of the tax could be limited or unlimited in
16 duration. The county shall identify the duration of the tax when it
17 is presented to the voters pursuant to the provisions of subsections
18 A and C of this section. The maximum duration of a levy imposed
19 pursuant to Section 891.14 of Title 62 of the Oklahoma Statutes
20 shall be no longer than allowed pursuant to the Oklahoma Community
21 Economic Development Pooled Finance Act.

22 I. Except for the levies imposed pursuant to Section 891.14 of
23 Title 62 of the Oklahoma Statutes, there are hereby created one or
24 more county sales tax revolving funds in each county which levies a

1 sales tax under this section if any or all of the proceeds of such
2 tax are not to be deposited in the general revenue fund of the
3 county or comply with the provisions of subsection G of this
4 section. Each such revolving fund shall be designated for a
5 particular purpose and shall consist of all monies generated by such
6 sales tax which are designated for such purpose. Monies in such
7 funds shall only be expended for the purposes specifically
8 designated as required by this section. A county sales tax
9 revolving fund shall be a continuing fund not subject to fiscal year
10 limitations.

11 J. In the case of a levy submitted for voter approval pursuant
12 to Section 891.14 of Title 62 of the Oklahoma Statutes, taxes levied
13 by a county shall not become valid until the ordinance or resolution
14 setting the rate of the levy shall have been approved by a majority
15 vote of the registered voters of each such county voting on such
16 question at a special election. Elections conducted pursuant to
17 questions submitted pursuant to Section 891.14 of Title 62 of the
18 Oklahoma Statutes shall be conducted on the same date or in a
19 sequence that provides that the last vote required for approval by
20 all participating counties or municipalities occurs not later than
21 thirty (30) days after the date upon which the first vote occurs.

22 SECTION 3. This act shall become effective November 1, 2022.
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