

(1ST EXTRAORDINARY SESSION)
ENGROSSED HOUSE
BILL NO. 1001

BY: JOHNSON (Glen), BENSON,
HAMILTON (James),
McCORKELL, HEATON,
JOHNSON (Rob), LEIST,
MANAR, ROBERTS (Walter),
APPLE, CAMPBELL,
COLEMAN, FALLIN, GATES,
GREENWOOD, HENSHAW,
KOUBA, MADDUX (Elmer),
MASS, POPE, REESE,
SULLIVAN, VAUGHN (Ray),
WEBB and WORTHEN of the
HOUSE

and

BROWN of the SENATE

AN ACT RELATING TO AIRCRAFT AND AIRPORTS, ELECTIONS,
PROPERTY AND REVENUE AND TAXATION; AMENDING 3 O.S.
1981, SECTION 65.5, WHICH RELATES TO THE OPERATION
AND USE OF MUNICIPAL AIRPORTS; EXPANDING
APPLICATION TO AIRCRAFT MAINTENANCE OR
MANUFACTURING FACILITIES; MODIFYING TERM LIMITATION
FOR MUNICIPALITY TO ENTER INTO CERTAIN CONTRACTS,
LEASES AND OTHER ARRANGEMENTS; AMENDING 26 O.S.
1981, SECTION 12-116, AS AMENDED BY SECTION 3,
CHAPTER 193, O.S.L. 1985 (26 O.S. SUPP. 1990,
SECTION 12-116), WHICH RELATES TO SPECIAL ELECTIONS
ON STATE OR LOCAL QUESTIONS; PROVIDING EXCEPTION
TO ELECTION DATE LIMITATION; AMENDING 60 O.S. 1981,
SECTION 176, AS LAST AMENDED BY SECTION 1, CHAPTER
269, O.S.L. 1990 (60 O.S. SUPP. 1990, SECTION 176),
WHICH RELATES TO PUBLIC TRUSTS; DELETING LANGUAGE
RELATING TO THE DURATION OF THE TERM OF LEASES OF

AIRPORT PROPERTY; AMENDING 68 O.S. 1981, SECTION 1357, AS LAST AMENDED BY SECTION 2, CHAPTER 280, O.S.L. 1990 (68 O.S. SUPP. 1990, SECTION 1357), WHICH RELATES TO THE OKLAHOMA SALES TAX CODE; AUTHORIZING CERTAIN COUNTIES TO LEVY A CERTAIN TAX ON THE SALE OF NATURAL OR ARTIFICIAL GAS AND ELECTRICITY SOLD EXCLUSIVELY FOR RESIDENTIAL USE; AUTHORIZING CERTAIN COUNTY SALES TAX LEVY; SPECIFYING RATE OF TAX; PROVIDING FOR CERTAIN USAGE OF PROCEEDS OF TAX; PROVIDING REQUIREMENT FOR COMMENCEMENT OF IMPOSITION OF TAX; DEFINING TERM; REQUIRING VOTER APPROVAL; LIMITING USAGE OF TAX AMOUNT; LIMITING TIME PERIOD IN WHICH THE TAX MAY BE IMPOSED; PROVIDING FOR THE LATEST DATE A SPECIAL ELECTION MAY BE HELD; PROVIDING SALES TAX RELIEF AND PROCEDURES RELATED THERETO; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 3 O.S. 1981, Section 65.5, is amended to read as follows:

Section 65.5 (a) Under municipal operation. In operating an airport ~~or~~, air navigation facility or aircraft maintenance or manufacturing facility owned, leased or controlled by a municipality, such municipality may, except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section ~~13~~ 65.13 of this ~~act~~ title, enter into contracts, leases and other arrangements for a term not exceeding ~~twenty-five (25)~~ forty (40) years with any persons.

(1) granting the privilege of using or improving such airport ~~or~~, air navigation facility or aircraft maintenance or manufacturing facility or any portion or facility thereof, or space therein for commercial purposes;

(2) conferring the privilege of supplying goods, commodities, things, services or facilities at such airport ~~or~~, air navigation facility or aircraft maintenance or manufacturing facility; or

(3) making available services to be furnished by the municipality or its agents at such airport ~~or~~, air navigation facility or aircraft maintenance or manufacturing facility. In each case the municipality may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the municipality.

(b) Under other operation. Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section ~~13~~, 65.13 of this ~~act~~ title, a municipality may by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed five (5) years the privilege of operating, as agent of the municipality or otherwise, any airport owned or controlled by the municipality; provided, that no such person shall be granted any authority to operate such airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the municipality might not have undertaken under subsection (a) of this section.

SECTION 2. AMENDATORY 26 O.S. 1981, Section 12-116, as amended by Section 3, Chapter 193, O.S.L. 1985 (26 O.S. Supp. 1990, Section 12-116), is amended to read as follows:

Section 12-116. In the event the Governor or the Legislature shall call for a special statewide election on any measure to be

submitted to a vote of the people, said election shall be held not fewer than sixty (60) days from the date said election is called.

In the event the board of county commissioners or the governing body of a municipality or school district or vocational-technical school district or any other governmental subdivision calls for a special election on any question, said election shall be held not fewer than forty-five (45) days from the date said election is called;

provided, a special election pursuant to the provisions of Section 5 of this act which is called by the board of county commissioners on or before March 1, 1991, shall be held not fewer than thirty (30) days from the date said election is called. A special election to fill a vacancy for member of the board of education of a school district or to fill a vacancy for municipal office shall be scheduled not fewer than forty-five (45) days from the date said election is called.

SECTION 3. AMENDATORY 60 O.S. 1981, Section 176, as last amended by Section 1, Chapter 269, O.S.L. 1990 (60 O.S. Supp. 1990, Section 176), is amended to read as follows:

Section 176. (a) Express trusts may be created to issue obligations and to provide funds for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any combinations thereof, in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county or municipality or any combinations thereof, as the beneficiary thereof by the: (1) express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary; (2) express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary; (3) express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary. Provided, that no funds of said

beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of said trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds. The officers or any other governmental agencies or authorities having the custody, management or control of any property, real or personal or both, of the beneficiary of such trust, or of such a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease such property for said purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided.

(b) A municipality may convey title to real property which is used for an airport to the trustees of an industrial development authority trust whose beneficiary is the municipality. Said industrial development authority trust must already have the custody, management or control of such real property. Such conveyance must be approved by a majority of the governing body of the municipality. A conveyance pursuant to this section may be made only for the sole purpose of allowing such authority to sell the property for fair market value when the property is to be used for industrial development purposes. Conveyances made pursuant to this subsection shall be made subject to any existing reversionary interest or other restrictions burdening the property and subject to any reversionary interest or other restriction considered prudent by the municipality.

(c) The trustees of a public trust having the State of Oklahoma as beneficiary shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the public trust. All bylaws of a public trust having the State of Oklahoma as beneficiary shall be submitted in writing to the Governor of the

State of Oklahoma. The Governor must approve the proposed bylaws before they take effect.

(d) No public trust in which the State of Oklahoma is the beneficiary may be amended without a two-thirds (2/3) vote of approval of the trustees of such trust. Provided, that any such amendment is subject to the approval of the Governor of the State of Oklahoma. Such amendments shall be sent to the Governor within fifteen (15) days of their adoption.

(e) No trust in which a county or municipality is the beneficiary shall hereafter create an indebtedness or obligation until such indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of said beneficiary. In the event a trust has more than one beneficiary, as authorized by this section, such trust shall not incur an indebtedness or obligation until such indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of two-thirds (2/3) of the beneficiaries of said trust.

(f) All bonds described in subsection (e) of this section, after the effective date of this act, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened, except, on bond issues with the approval of three-fourths (3/4) of the trustees, and a three-fourths (3/4) vote of the governing body of the beneficiary, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of said trust as the case may be, competitive bidding may be waived. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees. In no event shall bonds be sold for less than sixty-

five percent (65%) of par value. Provided, however, in no event shall the original purchaser from the issuer of any bonds issued by any public trust for any purpose receive directly or indirectly any fees, compensation or other remuneration in excess of four percent (4%) of the price paid for such bonds by the purchaser of such bonds from the original purchaser; and further provided, that the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum. No public trust shall sell bonds for less than ninety-six percent (96%) of par value until the public trust has received from the underwriter or financial advisor or, in the absence of an underwriter or financial advisor, the initial purchaser of such bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each alternative. At least one alternative financing structure shall include bonds sold to the public at par. Such estimates shall be considered a public record of said public trust. Bonds, notes or other evidences of indebtedness issued by any public trust shall be eligible for purchase by any state banking association or corporation subject to such limitations as to investment quality as may be imposed by regulations, rules or rulings of the State Banking Commissioner.

(g) Contracts for construction, labor, equipment, material or repairs in excess of Two Thousand Dollars (\$2,000.00) shall be awarded by public trusts to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published in the manner provided in the preceding section hereof; such advertisements shall appear in the county where the work, or the major part of it, is to be done, or the equipment or materials are to be delivered, or the services are to be rendered. Provided, however, should the trustee or the trustees find that an immediate emergency exists, which findings shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of

trust funds in an amount exceeding Two Thousand Dollars (\$2,000.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then such contracts may be made and entered into without public notice or competitive bids; provided that the provisions of this subsection shall not apply to contracts of industrial and cultural trusts.

(h) Any public trust created pursuant to the provisions of this section shall have the power to acquire lands by use of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes. Any exercise of the power of eminent domain by a public trust pursuant to the provisions of this section shall be limited to the furtherance of public purpose projects involving revenue-producing utility projects of which the public trust retains ownership; provided, for public trusts in which the State of Oklahoma is the beneficiary the exercise of the power of eminent domain may also be used for public purpose projects involving air transportation. Revenue-producing utility projects shall be limited to projects for the transportation, delivery, treatment or furnishing of water for domestic purposes or for power, including, but not limited to the construction of lakes, pipelines and water treatment plants. Any public trust formed pursuant to this section which has a county as its beneficiary shall have the power to acquire, by use of eminent domain, any lands located either inside such county, or contiguous to such county pursuant to the limitations imposed pursuant to this section.

(i) Provisions of this section shall not apply to entities created under Sections 1324.1 through 1324.26, of Title 82 of the Oklahoma Statutes.

~~(j) Notwithstanding the general limitation applicable to the duration of the term of leases of airport property set forth in Section 65.5 of Title 3 of the Oklahoma Statutes, the length of the~~

~~term of any such lease may be for a period of years, in no event to exceed forty (40) years, as may be required to enable a lessee of public airport property to secure the maximum depreciation credits allowable under the Internal Revenue Code of 1986, as amended, for any improvement or facility financed and constructed by such lessee on public airport premises during said lease term if upon the expiration or termination of such lease term the title to the improvement or facility shall vest free and clear of any and all liens and encumbrances in the public entity owning or operating the public airport.~~

SECTION 4. AMENDATORY 68 O.S. 1981, Section 1357, as last amended by Section 2, Chapter 280, O.S.L. 1990 (68 O.S. Supp. 1990, Section 1357), is amended to read as follows:

Section 1357. Exemption - General. There are hereby specifically exempted from the tax levied by this article:

(A) Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

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

(C) Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit. The exemption provided by this subsection shall

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

(D) Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

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

(F) Sale of natural or artificial gas and electricity when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 5 of this act, from levying and collecting taxes on the sale

of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 5 of this act, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

(G) Sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

(H) Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

(I) Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

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

(K) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment to a new or expanding business. In order to qualify for the exemption provided for by this subsection, the sale of said

items shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00). For purposes of this subsection, qualified purchaser means any new or expanding business which adds at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment made within thirty-six (36) months of the effective date of this act shall be eligible for the exemption provided by this subsection.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1370.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in subsection (F) of Section 1357 of this title, subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of development of qualified aircraft maintenance or manufacturing facilities and any necessary infrastructure changes or airport improvements directly related to such facilities located within the county to be owned by the county, any municipality within the county or a public trust in which the county or municipality is a beneficiary. However, such municipality or public trust shall hold such title for the use and benefit of the residents of the entire county in which the tax is levied and collected. The acceptance by the municipality or public trust of any title or tax proceeds shall be deemed an acceptance of this requirement. The board of county commissioners of any county that

has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until a qualified aircraft maintenance or manufacturing facility has signed an agreement to locate such facility within the county. As used in this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding, whether or not on a factory basis, whose total cost of construction exceeds the sum of One Hundred Fifty Million Dollars (\$150,000,000.00) and which employs at least one thousand (1,000) new full-time-equivalent employees, as certified by the Employment Security Commission upon completion of the facility;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance an amount not to exceed twenty-five percent (25%) of the total cost of construction of the qualified aircraft maintenance or manufacturing facility and any necessary infrastructure changes or airport improvements directly related to such facility;

4. Such sales tax can only be imposed for a period not to exceed three (3) years; and

5. Any special election called pursuant to this section must be held no later than December 31, 1992.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1370.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any person who is a resident of and domiciled in a county which levies a sales tax pursuant to Section 5 of this act during the time such tax was in effect and whose gross household income

does not exceed Twelve Thousand Dollars (\$12,000.00) per year for each year in which the tax is in effect shall be eligible to file a claim for sales tax relief pursuant to the provisions of this section.

B. 1. Except as otherwise provided in paragraph 2 of this subsection, any inmate in the custody of the Department of Corrections during any part of a calendar year shall not be eligible to file a claim for sales tax relief pursuant to subsection A of this section for such calendar year. The provisions of this subsection shall not prohibit all other members of the household of an inmate from filing a claim based upon the personal exemptions to which the household members would be entitled pursuant to the provisions of the Oklahoma Income Tax Act.

2. Any inmate in the custody of the Department of Corrections who is assigned to pre-parole conditional supervision, house arrest or is housed at a community treatment center or halfway house which is under contract with the Department shall be eligible to file a claim for sales tax relief pursuant to subsection A of this section.

C. The amount of the claim filed pursuant to this section shall be Forty Dollars (\$40.00) multiplied by the number of personal exemptions to which the taxpayer would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, except for the exemptions such taxpayer would be entitled to pursuant to Section 2358 of this title if such taxpayer or spouse is blind or sixty-five (65) years of age or older at the close of the tax year.

D. All claims for relief authorized by this section shall be received by and in the possession of the board of county commissioners after December 31, 1993, and before July 1, 1994. The failure of a claimant to file a claim for relief as authorized by this subsection shall be deemed a forfeiture of the claimant's right to receive such relief.

E. All claims authorized by this section shall be made under oath and filed on forms prescribed and provided by the board of county commissioners. Such forms shall contain appropriate certifications, under a penalty of perjury, sufficient to verify the claim. The board of county commissioners or its designee may request additional information to determine the claimant's eligibility to receive the sales tax relief authorized by this section. Willful failure to provide such information shall be deemed by the board or its designee to be grounds for denial of the claim or modification of the amount of the claim.

F. As used in this section: "Gross household income" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal social security, unemployment payments, veteran disability compensation, public assistance payments, alimony, support money, worker's compensation, loss of time insurance payments, capital gains and any other type of income received; and excluding gifts.

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

Passed the House of Representatives the 16th day of January, 1991.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate