STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2218 By: Sullivan (John)

AS INTRODUCED

An Act relating to revenue and taxation; providing exemption from sales tax for certain eligible food and beverages; providing amount of exemption; providing that sales tax exemption shall not apply to certain counties and municipalities; prohibiting any increase in sales tax from applying to eligible food and beverages; amending 68 O.S. 1991, Section 1370, as last amended by Section 1, Chapter 228, O.S.L. 1996, 1370.1, 1370.2, Section 1, Chapter 1, O.S.L. 1994, as amended by Section 4, Chapter 7, O.S.L. 1994, Section 2, Chapter 287, O.S.L. 1992, Section 14, Chapter 275, O.S.L. 1993, Section 15, Chapter 275, O.S.L. 1993, Section 1, Chapter 332, O.S.L. 1995, and Section 1, Chapter 86, O.S.L. 1996 (68 O.S. Supp. 1997, Sections 1370, 1370.2A, 1370.4, 1370.5, 1370.6, 1370.7 and 1370.8), which relate to county and municipal sales tax; providing exception to certain exemption; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.9 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 1999, the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes shall be reduced by one-half of one percent (1/2 of 1%) each year for sales of all eligible food and beverages as defined in the federal Food Stamp Act, 7 U.S.C., Section 2011 et seq., as the act existed on January 1, 1998. The one-half of one percent (1/2 of 1%) reduction in the sales tax rate shall continue each year until January 1, 2007, at which time all eligible food and beverages shall be exempt from the tax levied pursuant to Section 1354 of Title 68 of the Oklahoma Statutes.

B. The exemption provided for in subsection A of this section for all eligible food and beverages shall not apply to any county or municipal sales tax imposed pursuant to law.

C. Any increase in the tax levied pursuant to Section 1354 of Title 68 of the Oklahoma Statutes shall not apply to eligible food and beverages.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1370, as last amended by Section 1, Chapter 228, O.S.L. 1996 (68 O.S. Supp. 1997, Section 1370), is amended to read as follows:

Section 1370. A. Any county of this state may levy a sales tax of not to exceed two percent (2%) 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 this state. 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 the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve

such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any sales tax approved by the registered voters of a county shall be applicable only when the point of sale is within the territorial limits of such county.

B. ~~All~~ Except for the exemption provided for eligible food and beverages as set forth in subsection A of Section 1 of this act, all items that are exempt from the state sales tax shall be exempt from any sales tax levied by a county.

C. Any sales tax which may be levied by a county shall be designated for a particular purpose. Such purposes may include, but are not limited to, economic development, general operations, capital improvements, county roads, weather modification or any other purpose deemed, by a majority vote of the county commissioners, to be necessary to promote safety, security and the general well being of the people. The county shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of subsection A of this section. The proceeds of any sales tax levied by a county shall be deposited in the general revenue or sales tax revolving fund of the county and shall be used only for the purpose for which such sales tax was designated. If the proceeds of any sales tax levied by a county pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the sales tax is imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the county.

D. The life of the tax could be limited or unlimited in duration. The county shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of subsection A of this section.

E. There are hereby created one or more county sales tax revolving funds in each county which levies a sales tax under this section if any or all of the proceeds of such tax are not to be deposited in the general revenue fund of the county. Each such revolving fund shall be designated for a particular purpose and shall consist of all monies generated by such sales tax which are designated for such purpose. Monies in such funds shall only be expended for the purposes specifically designated as required by this section. A county sales tax revolving fund shall be a continuing fund, not subject to fiscal year limitations.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 1370.1, is amended to read as follows:

Section 1370.1 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-half of one percent (1/2 of 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<u>, except as provided in Section 1 of this act,</u> subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of constructing and equipping county jail facilities or capital improvements for jail facilities only;

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

4. Any special election called pursuant to this section must be held no later than January 1, 1992.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 1370.2, is amended to read as follows:

Section 1370.2 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)~~ paragraph 6 of Section 1357 of this title and except as provided in Section 1 of this act, 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; and

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

SECTION 5. AMENDATORY Section 1, Chapter 1, O.S.L. 1994, as amended by Section 4, Chapter 7, O.S.L. 1994 (68 O.S. Supp. 1997, Section 1370.2A), is amended to read as follows:

Section 1370.2A 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<u>, except as provided in Section 1 of this act,</u> subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of acquisition and development of qualified manufacturing facilities, related machinery and equipment and any necessary infrastructure changes or improvements 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 manufacturing facility has signed an agreement to locate such facility within the county. As used in this paragraph, "qualified manufacturing facility" means a new or expanding facility primarily engaged in manufacturing, production and/or assembly of consumer or other products, whether or not on a factory basis, whose total cost of acquisition and construction exceeds the sum of Fifteen Million Dollars ($15,000,000.00) and which will employ at least one thousand (1,000) new full-time-equivalent employees, as certified by the Employment Security Commission within three (3) years after the 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 in the manner provided by law for county elections;

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 related to the acquisition and construction of the qualified manufacturing facility, related machinery and equipment and any necessary infrastructure changes or improvements directly related to such facility; and

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

SECTION 6. AMENDATORY Section 2, Chapter 287, O.S.L. 1992 (68 O.S. Supp. 1997, Section 1370.4), is amended to read as follows:

Section 1370.4 Notwithstanding the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, 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)~~ paragraph 6 of Section 1357 of Title 68 of the Oklahoma Statutes and except as provided in Section 1 of this act, 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 facilities for lease or conveyance to the government of the United States and any necessary infrastructure changes or improvements directly related to such facilities located within the county. 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 an agreement to locate such facility within the county is reached;

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 the construction of the facility and any necessary infrastructure changes or improvements directly related to such facility; and

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

SECTION 7. AMENDATORY Section 14, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1997, Section 1370.5), is amended to read as follows:

Section 1370.5 A. Notwithstanding the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, 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 paragraph 6 of Section 1357 of Title 68 of the Oklahoma Statutes <u>and except as provided by Section 1 of this act</u>, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of funding one or more economic development projects;

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

4. Any special election called pursuant to this section must be held no later than March 1, 1994.

B. The board of county commissioners shall create a limited-purpose fund and deposit therein any revenue generated by any sales tax levied pursuant to the provisions of subsection A of this section. The fund shall be placed in an insured or collateralized interest-bearing account and the interest which accrues to the fund shall be retained in the fund. Monies in the limited-purpose fund shall be expended only as accumulated and only for the purpose

specifically described in paragraph 1 of subsection A of this section.

C. As used in this section, "economic development project" means any project which the board of county commissioners determines will promote, enhance or improve economic conditions within the county.

SECTION 8. AMENDATORY Section 15, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1997, Section 1370.6), is amended to read as follows:

Section 1370.6 A. Notwithstanding the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, 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 paragraph 6 of Section 1357 of Title 68 of the Oklahoma Statutes <u>and except as provided in Section 1 of this act</u>, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of funding one or more projects for new public improvements;

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

4. Any special election called pursuant to this section must be held no later than March 1, 1994.

B. The board of county commissioners shall create a limited-purpose fund and deposit therein any revenue generated by any sales tax levied pursuant to the provisions of subsection A of this

section. The fund shall be placed in an insured interest-bearing account and the interest which accrues to the fund shall be retained in the fund. Monies in the limited-purpose fund shall be expended only as accumulated and only for the purpose specifically described in paragraph 1 of subsection A of this section.

C. As used in this section:

1. "Projects for new public improvements" means any new and beneficial change, addition, betterment or enhancement of or upon any real property belonging to a public agency, intended to enhance the value, beauty or utility of said property or to adapt it to new or further purposes; and

2. "Public agency" means the State of Oklahoma and any county, city, public trust or other public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization contained therein.

SECTION 9. AMENDATORY Section 1, Chapter 332, O.S.L. 1995 (68 O.S. Supp. 1997, Section 1370.7), is amended to read as follows:

Section 1370.7 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a transportation authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing transportation-related projects located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any transportation authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. ~~All~~ Except for the exemption provided for eligible food and beverages as set forth in subsection A of Section 1 of this act, all items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing transportation-related projects within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, as it relates to the financing of such transportation-related projects.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the transportation-related project within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a transportation-related project.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of transportation-related projects, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

SECTION 10. AMENDATORY Section 1, Chapter 86, O.S.L. 1996 (68 O.S. Supp. 1997, Section 1370.8), is amended to read as follows:

Section 1370.8 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a hospital authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing hospitals or related medical facilities located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any hospital authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the

registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. ~~All~~ Except for the exemption provided for eligible food and beverages as set forth in subsection A of Section 1 of this act, all items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing hospitals or related medical facilities within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, as it relates to the financing of such hospitals or related medical facilities.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the hospitals or related medical facilities within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a hospital or related medical facility.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of hospitals or related medical facilities, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

SECTION 11. This act shall become effective January 1, 1999.

46-2-7990 JAF