

ENGROSSED HOUSE AMENDMENT  
TO  
ENGROSSED SENATE BILL NO. 694

By: Weedn of the Senate

and

Boyd of the House

An Act relating to public contracts; amending 62 O.S. 1991, Section 430.1, which relates to acquisition of property by political subdivisions; modifying type of property which may be rented by political subdivision; defining term; specifying status of certain property; modifying type of agreements to which certain provisions apply; allowing and requiring certain agreements to include certain provisions; providing procedures for payment and term for lease or rental of certain property; amending 61 O.S. 1991, Section 102, as last amended by Section 2, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1998, Section 102), which relates to the Public Competitive Bidding Act of 1974; making exclusion to certain definition; amending 70 O.S. 1991, Section 5-117, as last amended by Section 8, Chapter 365, O.S.L. 1998 (70 O.S. Supp. 1998, Section 5-117), which relates to powers and duties of boards of education; modifying type of property which boards are authorized to rent; specifying terms of lease agreements; requiring school boards to conduct public hearing for specified purpose; deleting redundant language; providing an effective date; and declaring an emergency.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to public contracts; amending 60 O.S. 1991, Section 176, as last amended by Section 1, Chapter 173, O.S.L. 1998 (60 O.S. Supp. 1998, Section 176), which relates to property; modifying limit amount necessary for competitive biddings; amending 61 O.S. 1991, Section 102, as last amended by Section 2, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1998, Section 102), which relates to the Public Competitive Bidding Act of 1974; making exclusion to certain definition; amending 62 O.S. 1991, Section 430.1, which relates to acquisition of property by political subdivisions; modifying type of property which may be rented by political subdivision; defining term; specifying status of certain property; modifying type of agreements to which certain provisions apply; allowing and requiring certain agreements to include certain provisions; providing procedures for payment and term for lease or rental of certain property; amending 68 O.S. 1991, Section 1356, as last amended by Section 7, Chapter 385, O.S.L. 1998 (68 O.S. Supp. 1998, Section 1356), which relates to

exemptions from sales tax; exempting sales subject to certain lease or lease-purchase contract from sales tax; amending 68 O.S. 1991, Section 2105, as last amended by Section 3, Chapter 179, O.S.L. 1998 (68 O.S. Supp. 1998, Section 2105), which relates to exemptions from vehicle excise tax; modifying exemption to include municipalities; amending 70 O.S. 1991, Section 5-117, as last amended by Section 8, Chapter 365, O.S.L. 1998 (70 O.S. Supp. 1998, Section 5-117), which relates to powers and duties of boards of education; modifying type of property which boards are authorized to rent; specifying terms of lease agreements; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 60 O.S. 1991, Section 176, as last amended by Section 1, Chapter 173, O.S.L. 1998 (60 O.S. Supp. 1998, 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 and all 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 and all combinations thereof, as the beneficiary thereof by:

1. The express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary;

2. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary; ~~or~~

3. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary; or

4. The express approval of two-thirds (2/3) of the membership of the governing body of each beneficiary in the event a trust has more than one beneficiary; provided, that no funds of a beneficiary

derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of the 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 mixed, of the beneficiary of the trust, or of a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease the property for those 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. The industrial development authority trust must already have the custody, management, or control of the real property. The 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 the 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 the trust; provided, that any amendment is subject to the approval of the Governor of the State of Oklahoma. Any 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 the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of the beneficiary. In the event a trust has more than one beneficiary, as authorized by this section, the trust shall not incur an indebtedness or obligation until the 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 the trust.

F. All bonds described in subsection E of this section, after December 1, 1976, 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; provided, competitive bidding may be waived 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, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of the trust, unless one of the beneficiaries is a county in which case a two-thirds (2/3) vote of the members of the governing body of such county shall be required. No bonds shall be sold for less than par value, except

upon approval of three-fourths (3/4) of the trustees, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required. 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 the bonds by the purchaser of the 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 the 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. Any estimates shall be considered a public record of the 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. Public trusts created pursuant to this section shall file annually, with their respective beneficiaries, copies of financial documents and reports sufficient to demonstrate the fiscal activity of such trust, including, but not limited to, budgets, financial reports, bond indentures, and audits. Amendments to the adopted budget shall be approved by the trustees of the public trust and recorded as such in the official minutes of such trust.

H. Contracts for construction, labor, equipment, material or repairs in excess of ~~Seven Thousand Five Hundred Dollars (\$7,500.00)~~ Twelve Thousand Five Hundred Dollars (\$12,500.00) 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; the 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 ~~Seven Thousand Five Hundred Dollars (\$7,500.00)~~ Twelve Thousand Five hundred Dollars (\$12,500.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then the 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. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

I. 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 or for projects for rail transportation. 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 the county, or contiguous to the county pursuant to the limitations imposed pursuant to this section.

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

SECTION 2. AMENDATORY 61 O.S. 1991, Section 102, as last amended by Section 2, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1998, Section 102), is amended to read as follows:

Section 102. When used in ~~this act~~ the Public Competitive Bidding Act of 1974, unless the context clearly indicates otherwise, the following words and terms shall be construed as having the meanings ascribed to them in this section:

1. "Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction contract;

2. "Bidding documents" means the bid notice, plans and specifications, bidding form, bidding instructions, special provisions and all other written instruments prepared by or on behalf of an awarding public agency for use by prospective bidders on a public construction contract;

3. "Public agency" means the State of Oklahoma, and any county, city, town, school district or other political subdivision of the

state, any public trust, any public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization therefor, and any department, agency, board, bureau, commission, committee or authority of any of the foregoing public entities;

4. "Public construction contract" or "contract" means any contract, exceeding Twelve Thousand Five Hundred Dollars (\$12,500.00) in amount, awarded by any public agency for the purpose of making any public improvements or constructing any public building or making repairs to the same except where the improvements, construction of any building or repairs to the same are improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for ~~said~~ the contract unless the public tax revenues used for the project are authorized by a majority of the voters of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

5. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, equipment or supplies by a public agency or any personal property as defined in subsection B of Section 430.1 of Title 62 of the Oklahoma Statutes; and

6. "Retainage" means the difference between the amount earned by the contractor on a public construction contract, with the work

being accepted by the public agency, and the amount paid on said contract by the public agency.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 430.1, is amended to read as follows:

Section 430.1 A. The governing board of any county, city or town, or school district is authorized to rent on a monthly basis real or personal property ~~or equipment~~ as authorized by the governing board and to pay the rental charges thereon for usage during any fiscal period, or portion thereof, out of appropriations made and approved for such purposes for, or during, such fiscal year. Any such rental contract extending beyond June 30 of the fiscal year shall contain provisions for mutual ratification of renewal under the conditions provided in this section.

B. As used in this section, the term "personal property" shall include, but not be limited to:

1. Portable, or otherwise moveable, buildings and structures;
2. Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;
3. Roofs placed over existing roof structures; and
4. Other structures that can be disassembled after installation and removed without permanent damage to existing property.

Such personal property shall retain its status as personal property and shall not be deemed to become attached to the real estate for the duration of the lease-purchase agreement.

C. It is the purpose of this ~~act~~ section to authorize such governing boards to enter into lease and lease-purchase contracts but not to incur any obligation upon the part of their respective municipal or governmental subdivisions in excess of the income and revenue thereof provided for such purposes for the fiscal year in which the lease contract is effectively operative.

~~C.~~ D. Any agreement to lease and purchase real or personal property ~~or equipment~~, where title is to be acquired by the

municipal or governmental subdivision, shall state the purchase price of the real or personal property ~~or equipment~~ so leased and in no event shall the lease be extended so as to cause payment of more than the stated purchase price of the real or personal property ~~or equipment~~ plus interest not to exceed ten percent (10%) simple interest on the unpaid balance due as of each payment date. When the purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a bill of sale to the property to the lessee. Any lease-purchase agreement may include an option to purchase, transfer and acquire title during the term of the lease upon payment of the balance of the agreed purchase price, and each agreement shall include a provision to transfer title to the lessee at the end of the completed lease term for nominal or no additional consideration.

~~D.~~ E. The payment for the lease or rental of real or personal property, ~~machinery and equipment~~ shall be made only from annual and supplemental appropriations specifically designated for such purpose, and no appropriation for the purpose of paying rentals on real or personal property, ~~machinery and equipment~~ shall be transferred or diverted to any other purpose, except as may be authorized by the terms of the agreement or by law.

~~E.~~ F. When any real or personal property, ~~machinery or equipment~~ has been leased or rented during any fiscal year under any contract which permits continuance of such rental for the remainder of the fiscal year, the renting or leasing thereof shall be continued for the remainder of the fiscal year unless the governing body renting or leasing the same, by proper resolution entered in the minutes of the governing body, shall certify that the continuance of such rental is unnecessary and contrary to the public interest.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 7, Chapter 385, O.S.L. 1998 (68 O.S. Supp. 1998, Section 1356), is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by this article:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

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

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

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

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

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

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

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

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of

the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority and the Oklahoma Municipal Power Authority, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the

construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

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

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or
- g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or

registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

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

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

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section

shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

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

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

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

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
  - (1) provides primary care services at no cost to the recipient, and
  - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

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

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

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor

that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

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

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

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

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

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2105, as last amended by Section 3, Chapter 179, O.S.L. 1998 (68 O.S. Supp. 1998, Section 2105), is amended to read as follows:

Section 2105. An original or a transfer certificate of title shall be issued without the payment of the excise tax levied by Section 2101 et seq. of this title for:

1. Any vehicle owned by a nonresident person who operates principally in some other state but who is in Oklahoma only occasionally;

2. Any vehicle brought into this state by a person formerly living in another state, who has owned and registered said vehicle in such other state of his residence at least sixty (60) days prior to the time it is required to be registered in this state, provided however this paragraph shall not apply to businesses engaged in renting cars without a driver;

3. Any vehicle registered by the State of Oklahoma, by any of the political subdivisions thereof, or by a fire department organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes to be used for the purposes of the fire department, or a vehicle which is the subject of a lease or lease-purchase agreement executed between the person seeking an original or transfer certificate of title for the vehicle and a municipality, county or a school district. The person seeking an original or transfer certificate of title shall provide adequate proof that the vehicle

is subject to a lease or lease-purchase agreement with a municipality, county or a school district at the time the excise tax levied would otherwise be payable. The Oklahoma Tax Commission shall have the authority to determine what constitutes adequate proof as required by this section;

4. Any vehicle, the legal ownership of which is obtained by the applicant for a certificate of title by inheritance;

5. Any used motor vehicle, travel trailer or commercial trailer which is owned and being offered for sale by a person licensed as a dealer to sell the same, under the provisions of Section 1101 et seq. of Title 47 of the Oklahoma Statutes:

- a. if such vehicle, travel trailer or commercial trailer has been registered in Oklahoma and the excise tax paid thereon, or
- b. when such vehicle, travel trailer or commercial trailer has been registered in some other state but is not the latest manufactured model.

Provided, the provisions of this paragraph shall not be construed as allowing an exemption to any person not licensed as a dealer of used motor vehicles, travel trailers or commercial trailers or as an automotive dismantler and parts recycler in this state;

6. Any vehicle which was purchased by a person licensed to sell new or used motor vehicles in another state:

- a. if such vehicle is not purchased for operation or resale in this state, and
- b. the state from which the dealer is licensed offers reciprocal privileges to a dealer licensed in this state, pursuant to a reciprocal agreement between the duly authorized agent of the Oklahoma Tax Commission and the licensing state;

7. Any vehicle, the ownership of which was obtained by the lienholder or mortgagee under or by foreclosure of a lien or

mortgage in the manner provided by law or to the insurer under subrogated rights arising by reason of loss under an insurance contract;

8. Any vehicle which is taxed on an ad valorem basis;

9. Any vehicle or motor vehicle, the legal ownership of which is obtained by transfers:

- a. from one corporation to another corporation pursuant to a reorganization. As used in this subsection the term "reorganization" means:
  - (1) a statutory merger or consolidation, or
  - (2) the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation,
- b. in connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation,
- c. to a corporation where the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the vehicle or motor vehicle prior to the transfer,
- d. to a partnership if the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, members of such partnership and the interest in the partnership received by each is substantially in proportion to his interest in the vehicle or motor vehicle prior to the transfer,

- e. from a partnership to the members thereof when made in the dissolution of such partnership,
- f. to a limited liability company if the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, members of the limited liability company and the interest in the limited liability company received by each is substantially in proportion to the interest in the vehicle or motor vehicle prior to the transfer, or
- g. from a limited liability company to the members thereof when made in the dissolution of such partnership;

10. Any vehicle which is purchased by a person to be used by a business engaged in renting motor vehicles without a driver, provided:

- a. the vehicle shall not be rented to the same person for a period exceeding ninety (90) days,
- b. any such vehicle exempted from the excise tax by these provisions shall not be placed under any type of lease agreement,
- c. on any such vehicle exempted from the excise tax by this subsection that is reregistered in this state, without a prior sale or transfer to the persons specified in divisions (1) and (2) of this subparagraph, at any time prior to the expiration of twelve (12) months from the date of issuance of the original title, the seller shall pay immediately the amount of excise tax which would have been due had this exemption not been granted plus a penalty of twenty percent (20%). No such excise tax or penalty shall become due and payable if the vehicle is sold or transferred in a condition either physical or mechanical which would render it eligible for a

salvage title pursuant to law or if the vehicle is sold and transferred in this state at any time prior to the expiration of twelve (12) months:

- (1) to the manufacturer of the vehicle or its controlled financing arm, or
- (2) to a factory authorized franchised new motor vehicle dealer which holds a franchise of the same line-make of the vehicle being purchased, or

d. when this exemption is claimed, the Oklahoma Tax Commission shall issue a special title which shall restrict the transfer of the title only within this state prior to the expiration of twelve (12) months unless:

- (1) payment of the excise tax plus penalty as provided in this section is made,
- (2) the sale is made to a person specified in division (1) or (2) of subparagraph c of this paragraph, or
- (3) the vehicle is eligible for a salvage title.

For all other tax purposes vehicles herein exempted shall be treated as though the excise tax has been paid;

11. Any vehicle of the latest manufactured model, registered from a title in the name of the original manufacturer or assigned to the original manufacturer and issued by any state and transferred to a licensed, franchised Oklahoma motor vehicle dealer, as defined by Section 1102 of Title 47 of the Oklahoma Statutes, which holds a franchise of the same line-make as the vehicle being registered;

12. Any new motor vehicle, registered in the name of a manufacturer or dealer of new motor vehicles, for which a license plate has been issued pursuant to Section 1116.1 of Title 47 of the Oklahoma Statutes, if such vehicle is authorized by the manufacturer or dealer for personal use by an individual. The authorization for

such use shall not exceed four (4) months which shall not be renewed or the exemption provided by this subsection shall not be applicable. The exemption provided by this subsection shall not be applicable to a transfer of ownership or registration subsequent to the first registration of the vehicle by a manufacturer or dealer;

13. Any vehicle, travel trailer or commercial trailer of the latest manufacturer model purchased by a franchised Oklahoma dealer licensed to sell the same which holds a franchise of the same line-make as the vehicle, travel trailer or commercial trailer being registered;

14. Any vehicle which is the subject of a lease or lease-purchase agreement and which the ownership of such vehicle is being obtained by the lessee, if the vehicle excise tax was paid at the time of the initial lease or lease-purchase agreement; or

15. Effective January 1, 1998, any vehicle which:

- a. is purchased by a private, nonprofit organization which is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which is primarily funded by a fraternal or civic service organization with at least one hundred local chapters or clubs, and
- b. is designed and used to provide mobile health screening services to the general public at no cost to the recipient, and for which no reimbursement of any kind is received from any health insurance provider, health maintenance organization or governmental program.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 5-117, as last amended by Section 8, Chapter 365, O.S.L. 1998 (70 O.S. Supp. 1998, Section 5-117), is amended to read as follows:

Section 5-117. A. The board of education of each school district shall have power to:

1. Elect its own officers;

2. Make rules, not inconsistent with the law or rules of the State Board of Education, governing the board and the school system of the district;

3. Maintain and operate a complete public school system of such character as the board of education shall deem best suited to the needs of the school district;

4. Designate the schools to be attended by the children of the district;

5. Provide and operate, when deemed advisable, cafeterias or other eating accommodations, thrift banks or other facilities for the teaching and practice of thrift and economy, bookstores, print shops, and vocational and other shops;

6. Provide informational material concerning school bond elections and millage elections, including but not limited to all pertinent financial information relative to the bond issue, a statement of revenue sources necessary to retire proposed bonds, a statement of current bonded indebtedness of the school district, and a statement of proposed use of funds to be generated by the proposed bond issue. The informational material shall not contain the words "vote yes" or "vote no" or any similar words or statement any place on such informational material;

7. Purchase, construct or rent, and operate and maintain, classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation places and playgrounds, teacherages, school bus garages, laboratories, administration buildings, and other schoolhouses and school buildings, and acquire sites and equipment therefor;

8. Have school district property insured;

9. Acquire property by condemnation proceedings in the same manner as land is condemned for railroad purposes. School district

funds may be used to erect buildings on leased land on which other buildings have been erected prior to April 3, 1969, or on land which is leased from a governmental entity;

10. Lease real or personal property to the state or any political subdivision thereof for nominal cash consideration for so long as the use of the property by the lessee substantially benefits, in whole or in part, the same public served by the school district;

11. Dispose of personal or real property no longer needed by the district by sale, exchange, lease, lease-purchase, sale and partial lease back, or otherwise. Real property shall be conveyed pursuant to a public sale, public bid, or private sale, provided however, unless otherwise prohibited by law, the board of education of a consolidated or annexed school district may convey real property to a local political subdivision without consideration. Prior to the sale of any real property, the board of education shall have the real property appraised. The appraisal shall be confidential until the real property is sold. When the real property is sold the board of education shall make the appraisal available for public inspection. Prior to the conveyance of any real property by private sale, the board of education shall have offered the real property for sale by public sale or public bid. Any conveyance of real property by private sale to a nonprofit organization, association, or corporation to be used for public purposes, unless for exchange, shall contain a reversionary clause which returns the real property to the board of education upon the cessation of the use without profit or for public purposes by the purchaser or the assigns of the purchaser;

12. Purchase necessary property, equipment, furniture, and supplies necessary to maintain and operate an adequate school system;

13. Incur all expenses, within the limitations provided for by law, necessary to perform all powers granted by the provisions of this section;

14. Contract with and fix the duties and compensation of physicians, dentists, optometrists, nurses, attorneys, superintendents, principals, teachers, bus drivers, janitors, and other necessary employees of the district. The board of education shall establish a written policy for reimbursement of necessary travel expenses of employees and members of the board. The written policy shall specify procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

15. Pay necessary travel expenses and other related expenses of prospective employees for sponsored visits to the school district pursuant to a written policy specifying procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

16. Provide for employees' leaves of absence without pay;

17. Exercise sole control over all the schools and property of the district, subject to other provisions of the Oklahoma School Code;

18. Allow district-owned school buses to be used for transportation of students from other districts or educational institutions while within the district on educational tours. This shall not restrict the authority of the board to authorize any other use of such buses which may now be permitted by law or rule of the State Board of Education;

19. Enter into contractual agreements with the board of trustees of a multicounty library system, as defined in Section 4-103 of Title 65 of the Oklahoma Statutes, a city-county library commission, as defined in Section 152 of Title 65 of the Oklahoma

Statutes, or a rural single county library system, as defined in Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as may be mutually agreed, except no district board of education may enter into any agreement under which the library services for the school would be provided at any site other than the school site or which would result in library services that do not meet accreditation standards as required by law or rule; and

20. Perform all functions necessary to the administration of a school district in Oklahoma as specified in the Oklahoma School Code, and in addition thereto, those powers necessarily implied but not delegated by law to any other agency or official.

B. The board of education of any school district may rent, on a monthly basis, ~~equipment and furniture~~ real or personal property, if such items are necessary for the operation of the school, and pay the rental charges for ~~said~~ the usage during any fiscal year, or portion thereof, out of appropriations made and approved for current expense purposes during ~~said~~ the fiscal year. Any such rental contract extending beyond June 30 of such fiscal year shall be void unless it contains provisions for mutual ratification of renewal pursuant to the conditions provided for in this subsection. It is the intent of this subsection to authorize boards of education to enter into lease contracts but not to incur any obligation against the school district in excess of the income and revenue provided for such purposes for the fiscal year in which such lease contract is operative. Any lease agreement entered into by any board of education shall state the purchase price of ~~equipment or furniture~~ real or personal property so leased. The lease shall not be extended so as to cause payment of more than the original purchase price of ~~said equipment or furniture~~ the real or personal property, plus interest not to exceed the legal rate. When ~~said~~ the purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a deed or bill of sale to ~~said~~

the property to the lessee. When any ~~equipment or furniture~~ real or personal property has been leased or rented during any fiscal year pursuant to the provisions of any contract which permits continuance of such rental for the remainder of such fiscal year, the renting or leasing thereof must be continued for the remainder of ~~said~~ the fiscal year unless the board of education renting or leasing the same certifies by proper resolution entered in the minutes of ~~said~~ the board of education that the continuance of such rental is unnecessary and contrary to the public interest.

C. The boards of education of two or more school districts may enter into cooperative agreements and maintain joint programs including, but not limited to, courses of instruction for handicapped children, courses of instruction in music and other subjects, practical instruction for trades and vocations, practical instruction in driver training courses, and health programs including visual care by persons legally licensed for such purpose, without favoritism as to either profession. The revenues necessary to operate a joint program approved in cooperative agreements, whether from federal, state or local sources, including the individual contributions of participating school districts, shall be deposited into a fund separate from all other appropriated funds. The beginning fund balance each year, combined with all actual revenues, including collected and estimated revenues, must be appropriated before being expended. Purchase orders shall be issued against available appropriations and, once goods or services have been received, either payable or nonpayable warrants shall be issued in payment of all purchase orders. The fund shall be reported as a separate appropriated fund in all the financial reports of the school district which is chosen by the other school districts to keep the accounting records of the joint program.

D. Any school district may operate or maintain a school or schools on any military reservation which is within the boundaries

of the school district or which is adjacent to the school district, and provide the instruction in the school or schools to children of personnel on the military reservation and, in doing so, shall conform to all federal laws and requirements.

E. The board of education of each school district shall adopt and maintain on file in the office of the superintendent of schools appropriate personnel policy and sick leave guide. The guide shall be made available to the public.

SECTION 7. This act shall become effective July 1, 1999.

SECTION 8. 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 5th day of April, 1999.

\_\_\_\_\_  
Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
President of the Senate