

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 318

6 By: Mazzei

7 COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68  
9 O.S. 2001, Sections 1354, as last amended by Section  
10 5, Chapter 155, O.S.L. 2007, 1370, as last amended by  
11 Section 4, Chapter 136, O.S.L. 2007, 1370.1, 1370.2,  
12 1370.2A, 1370.4, 1370.5, 1370.6, 1370.7, as last  
13 amended by Section 1, Chapter 308, O.S.L. 2006,  
14 1370.8, as amended by Section 2, Chapter 103, O.S.L.  
15 2004 and 2701, as last amended by Section 6, Chapter  
16 136, O.S.L. 2007 (68 O.S. Supp. 2008, Sections 1354,  
17 1370, 1370.7, 1370.8 and 2701), which relate to sales  
18 tax; providing exception; modifying sales tax levy on  
19 certain food and beverages according to specified  
20 schedule; requiring Oklahoma Tax Commission to  
21 promulgate rules; providing exception to certain  
22 county sales tax levies under specified  
23 circumstances; updating references; limiting  
24 application of certain provisions relating to sales  
tax levy of certain transportation or regional  
economic development authority or hospital authority;  
creating exception to certain municipal sales tax  
levy under specified circumstances; providing for  
codification; providing an effective date; and  
declaring an emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1354, as  
2 last amended by Section 5, Chapter 155, O.S.L. 2007 (68 O.S. Supp.  
3 2008, Section 1354), is amended to read as follows:

4 Section 1354. A. There is hereby levied upon all sales, not  
5 otherwise exempted in the Oklahoma Sales Tax Code and except as  
6 otherwise provided in Section 2 of this act, an excise tax of four  
7 and one-half percent (4.5%) of the gross receipts or gross proceeds  
8 of each sale of the following:

9 1. Tangible personal property, except newspapers and  
10 periodicals;

11 2. Natural or artificial gas, electricity, ice, steam, or any  
12 other utility or public service, except water, sewage and refuse.  
13 Provided, the rate of four and one-half percent (4.5%) shall not  
14 apply to sales subject to the provisions of paragraph 6 of Section  
15 1357 of this title;

16 3. Transportation for hire to persons by common carriers,  
17 including railroads both steam and electric, motor transportation  
18 companies, pullman car companies, airlines, and other means of  
19 transportation for hire, excluding:

20 a. transportation services provided by a tourism service  
21 broker which are incidental to the rendition of  
22 tourism brokerage services by such broker to a  
23 customer regardless of whether or not such  
24 transportation services are actually owned and

1 operated by the tourism service broker. For purposes  
2 of this subsection, "tourism service broker" means any  
3 person, firm, association or corporation or any  
4 employee of such person, firm, association or  
5 corporation which, for a fee, commission or other  
6 valuable consideration, arranges or offers to arrange  
7 trips, tours or other vacation or recreational travel  
8 plans for a customer, and

- 9 b. transportation services provided by a funeral  
10 establishment to family members and other persons for  
11 purposes of conducting a funeral in this state;

12 4. Intrastate, interstate and international telecommunications  
13 services sourced to this state in accordance with Section 1354.30 of  
14 this title and ancillary services. Provided:

- 15 a. the term "telecommunications services" shall mean the  
16 electronic transmission, conveyance, or routing of  
17 voice, data, audio, video, or any other information or  
18 signals to a point, or between or among points. The  
19 term "telecommunications services" includes such  
20 transmission, conveyance, or routing in which computer  
21 processing applications are used to act on the form,  
22 code or protocol of the content for purposes of  
23 transmission, conveyance or routing without regard to  
24 whether such service is referred to as voice-over

1 Internet protocol services or is classified by the  
2 Federal Communications Commission as enhanced or value  
3 added. "Telecommunications services" do not include:

- 4 (1) data processing and information services that  
5 allow data to be generated, acquired, stored,  
6 processed, or retrieved and delivered by an  
7 electronic transmission to a purchaser where such  
8 purchaser's primary purpose for the underlying  
9 transaction is the processed data or information,
- 10 (2) installation or maintenance of wiring or  
11 equipment on a customer's premises,
- 12 (3) tangible personal property,
- 13 (4) advertising, including but not limited to  
14 directory advertising,
- 15 (5) billing and collection services provided to third  
16 parties,
- 17 (6) Internet access services,
- 18 (7) radio and television audio and video programming  
19 services, regardless of the medium, including the  
20 furnishing of transmission, conveyance and  
21 routing of such services by the programming  
22 service provider. Radio and television audio and  
23 video programming services shall include, but not  
24 be limited to, cable service as defined in 47

1 U.S.C. 522(6) and audio and video programming  
2 services delivered by commercial mobile radio  
3 service providers, as defined in 47 C.F.R. 20.3;

4 (8) ancillary services, or

5 (9) digital products delivered electronically,  
6 including but not limited to, software, music,  
7 video, reading materials or ring tones,

8 b. the term "interstate" means a "telecommunications  
9 service" that originates in one United States state,  
10 or a United States territory or possession, and  
11 terminates in a different United States state or a  
12 United States territory or possession,

13 c. the term "intrastate" means a telecommunications  
14 service that originates in one United States state or  
15 a United States territory or possession, and  
16 terminates in the same United States state or a United  
17 States territory or possession,

18 d. the term "ancillary services" means services that are  
19 associated with or incidental to the provision of  
20 telecommunications services, including but not limited  
21 to "detailed telecommunications billing", "directory  
22 assistance", "vertical service", and "voice mail  
23 services".  
24

1 e. in the case of a bundled transaction that includes  
2 telecommunication service, ancillary service, internet  
3 access or audio or video programming service:

4 (1) if the price is attributable to products that are  
5 taxable and products that are nontaxable, the  
6 portion of the price attributable to the  
7 nontaxable products may be subject to tax unless  
8 the provider can identify by reasonable and  
9 verifiable standards such portion for its books  
10 and records kept in the regular course of  
11 business for other purposes, including, but not  
12 limited to, nontax purposes, and

13 (2) the provisions of this paragraph shall apply  
14 unless otherwise provided by federal law,

15 f. a sale of prepaid calling service or prepaid wireless  
16 calling service shall be taxable at the time of sale  
17 to the customer;

18 5. Telecommunications nonrecurring charges, which means an  
19 amount billed for the installation, connection, change or initiation  
20 of telecommunications services received by a customer;

21 6. Printing or printed matter of all types, kinds, or character  
22 and, except for services of printing, copying or photocopying  
23 performed by a privately owned scientific and educational library  
24 sustained by monthly or annual dues paid by members sharing the use

1 of such services with students interested in the study of geology,  
2 petroleum engineering or related subjects, any service of printing  
3 or overprinting, including the copying of information by mimeograph,  
4 multigraph, or by otherwise duplicating written or printed matter in  
5 any manner, or the production of microfiche containing information  
6 from magnetic tapes or other media furnished by customers;

7 7. Service of furnishing rooms by hotel, apartment hotel,  
8 public rooming house, motel, public lodging house, or tourist camp;

9 8. Service of furnishing storage or parking privileges by auto  
10 hotels or parking lots;

11 9. Computer hardware, software, coding sheets, cards, magnetic  
12 tapes or other media on which prewritten programs have been coded,  
13 punched, or otherwise recorded, including the gross receipts from  
14 the licensing of software programs;

15 10. Foods, confections, and all drinks sold or dispensed by  
16 hotels, restaurants, or other dispensers, and sold for immediate  
17 consumption upon the premises or delivered or carried away from the  
18 premises for consumption elsewhere;

19 11. Advertising of all kinds, types, and characters, including  
20 any and all devices used for advertising purposes except those  
21 specifically exempt pursuant to the provisions of Section 1357 of  
22 this title;

23 12. Dues or fees to clubs including free or complimentary dues  
24 or fees which have a value equivalent to the charge that would have

1 otherwise been made, including any fees paid for the use of  
2 facilities or services rendered at a health spa or club or any  
3 similar facility or business;

4 13. Tickets for admission to or voluntary contributions made to  
5 places of amusement, sports, entertainment, exhibition, display, or  
6 other recreational events or activities, including free or  
7 complimentary admissions which have a value equivalent to the charge  
8 that would have otherwise been made;

9 14. Charges made for the privilege of entering or engaging in  
10 any kind of activity, such as tennis, racquetball, or handball, when  
11 spectators are charged no admission fee;

12 15. Charges made for the privilege of using items for  
13 amusement, sports, entertainment, or recreational activity, such as  
14 trampolines or golf carts;

15 16. The rental of equipment for amusement, sports,  
16 entertainment, or other recreational activities, such as bowling  
17 shoes, skates, golf carts, or other sports or athletic equipment;

18 17. The gross receipts from sales from any vending machine  
19 without any deduction for rental to locate the vending machine on  
20 the premises of a person who is not the owner or any other  
21 deductions therefrom;

22 18. The gross receipts or gross proceeds from the rental or  
23 lease of tangible personal property, including rental or lease of  
24 personal property when the rental or lease agreement requires the

1 vendor to launder, clean, repair, or otherwise service the rented or  
2 leased property on a regular basis, without any deduction for the  
3 cost of the service rendered. If the rental or lease charge is  
4 based on the retail value of the property at the time of making the  
5 rental or lease agreement and the expected life of the property, and  
6 the rental or lease charge is separately stated from the service  
7 cost in the statement, bill, or invoice delivered to the consumer,  
8 the cost of services rendered shall be deducted from the gross  
9 receipts or gross proceeds;

10 19. Flowers, plants, shrubs, trees, and other floral items,  
11 whether or not produced by the vendor, sold by persons engaged in  
12 florist or nursery business in this state, including all orders  
13 taken by an Oklahoma business for delivery in another state. All  
14 orders taken outside this state for delivery within this state shall  
15 not be subject to the taxes levied in this section;

16 20. Tangible personal property sold to persons, peddlers,  
17 solicitors, or other salesmen, for resale when there is likelihood  
18 that this state will lose tax revenue due to the difficulty of  
19 enforcing the provisions of the Oklahoma Sales Tax Code because of:

- 20 a. the operation of the business,
- 21 b. the nature of the business,
- 22 c. the turnover of independent contractors,
- 23 d. the lack of place of business in which to display a  
24 permit or keep records,

- 1 e. lack of adequate records,
- 2 f. the fact that the persons are minors or transients,
- 3 g. the fact that the persons are engaged in service
- 4 businesses, or
- 5 h. any other reasonable reason;

6 21. Any taxable services and tangible personal property  
7 including materials, supplies, and equipment sold to contractors for  
8 the purpose of developing and improving real estate even though said  
9 real estate is intended for resale as real property, hereby declared  
10 to be sales to consumers or users, however, taxable materials,  
11 supplies and equipment sold to contractors as provided by this  
12 subsection which are purchased as a result of and subsequent to the  
13 date of a contract entered into either prior to the effective date  
14 of any law increasing the rate of sales tax imposed by this article,  
15 or entered into prior to the effective date of an ordinance or other  
16 measure increasing the sales tax levy of a political subdivision  
17 shall be subject to the rate of sales tax applicable, as of the date  
18 such contract was entered into, to sales of such materials, supplies  
19 and equipment if such purchases are required in order to complete  
20 the contract. Such rate shall be applicable to purchases made  
21 pursuant to the contract or any change order under the contract  
22 until the contract or any change order has been completed, accepted  
23 and the contractor has been discharged from any further obligation  
24 under the contract or change order or until two (2) years from the

1 date on which the contract was entered into whichever occurs first.  
2 The increased sales tax rate shall be applicable to all such  
3 purchases at the time of sale and the contractor shall file a claim  
4 for refund before the expiration of three (3) years after the date  
5 of contract completion or five (5) years after the contract was  
6 entered into, whichever occurs earlier. However, the Oklahoma Tax  
7 Commission shall prescribe rules and regulations and shall provide  
8 procedures for the refund to a contractor of sales taxes collected  
9 on purchases eligible for the lower sales tax rate authorized by  
10 this subsection; and

11 22. Any taxable services and tangible personal property sold to  
12 persons who are primarily engaged in selling their services, such as  
13 repairmen, hereby declared to be sales to consumers or users.

14 B. All solicitations or advertisements in print or electronic  
15 media by Group Three vendors, for the sale of tangible property to  
16 be delivered within this state, shall contain a notice that the sale  
17 is subject to Oklahoma sales tax, unless the sale is exempt from  
18 such taxation.

19 SECTION 2. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1357.11 of Title 68, unless  
21 there is created a duplication in numbering, reads as follows:

22 A. In lieu of the tax imposed by Section 1354 of Title 68 of  
23 the Oklahoma Statutes; the sale of all eligible food and beverages  
24

1 as defined in the Streamlined Sales and Use Tax Agreement, shall be  
2 subject to an excise tax as follows:

3 1. For the fiscal year beginning on July 1, 2009, a tax at the  
4 rate of three and six-tenths percent (3.6%);

5 2. For the fiscal year beginning on July 1, 2010, a tax at the  
6 rate of two and seven-tenths percent (2.7%);

7 3. For the fiscal year beginning on July 1, 2011, a tax at the  
8 rate of one and eight-tenths percent (1.8%);

9 4. For the fiscal year beginning on July 1, 2012, a tax at the  
10 rate of nine-tenths percent (.9%); and

11 5. For the fiscal year beginning on July 1, 2013, no tax shall  
12 be levied.

13 B. Any changes to the state tax rate on the sale of all eligible  
14 food and beverages, as provided by subsection A of this section,  
15 shall not apply to any county or municipal sales tax imposed  
16 pursuant to law.

17 C. The Oklahoma Tax Commission shall promulgate any necessary  
18 rules to implement the provisions of this act, including a rule  
19 defining eligible food and beverages in accordance with the  
20 Streamlined Sales and Use Tax Agreement.

21 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1370, as  
22 last amended by Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
23 2008, Section 1370), is amended to read as follows:

24

1 Section 1370. A. Any county of this state may levy a sales tax  
2 of not to exceed two percent (2%) upon the gross proceeds or gross  
3 receipts derived from all sales or services in the county upon which  
4 a consumer's sales tax is levied by this state. Before a sales tax  
5 may be levied by the county, the imposition of the tax shall first  
6 be approved by a majority of the registered voters of the county  
7 voting thereon at a special election called by the board of county  
8 commissioners or by initiative petition signed by not less than five  
9 percent (5%) of the registered voters of the county who were  
10 registered at the time of the last general election. However, if a  
11 majority of the registered voters of a county voting fail to approve  
12 such a tax, the board of county commissioners shall not call another  
13 special election for such purpose for six (6) months. Any sales tax  
14 approved by the registered voters of a county shall be applicable  
15 only when the point of sale is within the territorial limits of such  
16 county. Any sales tax levied or any change in the rate of a sales  
17 tax levied pursuant to the provisions of this section shall become  
18 effective on the first day of the calendar quarter following  
19 approval by the voters of the county unless another effective date,  
20 which shall also be on the first day of a calendar quarter, is  
21 specified in the ordinance or resolution levying the sales tax or  
22 changing the rate of sales tax.

23 B. The Oklahoma Tax Commission shall give notice to all vendors  
24 of a rate change at least sixty (60) days prior to the effective

1 date of the rate change. Provided, for purchases from printed  
2 catalogs wherein the purchaser computed the tax based upon local tax  
3 rates published in the catalog, the rate change shall not be  
4 effective until the first day of a calendar quarter after a minimum  
5 of one hundred twenty (120) days' notice to vendors. Failure to  
6 give notice as required by this section shall delay the effective  
7 date of the rate change to the first day of the next calendar  
8 quarter.

9 C. Initiative petitions calling for a special election  
10 concerning county sales tax proposals shall be in accordance with  
11 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma  
12 Statutes. Petitions shall be submitted to the office of county  
13 clerk for approval as to form prior to circulation. Following  
14 approval, the petitioner shall have ninety (90) days to secure the  
15 required signatures. After securing the requisite number of  
16 signatures, the petitioner shall submit the petition and signatures  
17 to the county clerk. Following the verification of signatures, the  
18 county clerk shall present the petition to the board of county  
19 commissioners. The special election shall be held within sixty (60)  
20 days of receiving the petition. The ballot title presented to the  
21 voters at the special election shall be identical to the ballot as  
22 presented in the initiative petition.

23 D. Subject to the provisions of Section ~~3~~ 1357.10 of this act  
24 title and except as provided in Section 2 of this act, all items

1 that are exempt from the state sales tax shall be exempt from any  
2 sales tax levied by a county.

3 E. Any sales tax which may be levied by a county shall be  
4 designated for a particular purpose. Such purposes may include, but  
5 are not limited to, projects owned by the state, any agency or  
6 instrumentality thereof, the county and/or any political subdivision  
7 located in whole or in part within such county, regional  
8 development, economic development, common education, general  
9 operations, capital improvements, county roads, weather modification  
10 or any other purpose deemed, by a majority vote of the county  
11 commissioners or as stated by initiative petition, to be necessary  
12 to promote safety, security and the general well-being of the  
13 people. The county shall identify the purpose of the sales tax when  
14 it is presented to the voters pursuant to the provisions of  
15 subsection A of this section. Except as otherwise provided in this  
16 section, the proceeds of any sales tax levied by a county shall be  
17 deposited in the general revenue or sales tax revolving fund of the  
18 county and shall be used only for the purpose for which such sales  
19 tax was designated. If the proceeds of any sales tax levied by a  
20 county pursuant to this section are pledged for the purpose of  
21 retiring indebtedness incurred for the specific purpose for which  
22 the sales tax is imposed, the sales tax shall not be repealed until  
23 such time as the indebtedness is retired. However, in no event

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1 shall the life of the tax be extended beyond the duration approved  
2 by the voters of the county.

3 F. 1. Notwithstanding any other provisions of law, any county  
4 that has approved a sales tax for the construction, support or  
5 operation of a county hospital may continue to collect such tax if  
6 such hospital is subsequently sold. Such collection shall only  
7 continue if the county remains indebted for the past construction,  
8 support or operation of such hospital. The collection may continue  
9 only until the debt is repaid or for the stated term of the sales  
10 tax, whichever period is shorter.

11 2. If the construction, support or operation of a hospital is  
12 funded through the levy of a county sales tax pursuant to this  
13 section and such hospital is subsequently sold, the county levying  
14 the tax may dissolve the governing board of such hospital following  
15 the sale. Upon the sale of the hospital and dissolution of any  
16 governing board, the county is relieved of any future liability for  
17 the operation of such hospital.

18 G. Proceeds from any sales tax levied that is designated to be  
19 used solely by the sheriff for the operation of the office of  
20 sheriff shall be placed in the special revenue account of the  
21 sheriff.

22 H. The life of the tax could be limited or unlimited in  
23 duration. The county shall identify the duration of the tax when it  
24

1 is presented to the voters pursuant to the provisions of subsections  
2 A and C of this section.

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

14 SECTION 4. AMENDATORY 68 O.S. 2001, Section 1370.1, is  
15 amended to read as follows:

16 Section 1370.1 Notwithstanding the provisions of Section 1370  
17 of this title, any county of this state with a population of more  
18 than three hundred thousand (300,000) according to the latest  
19 Federal Decennial Census may levy a sales tax of not to exceed one-  
20 half of one percent (1/2 of 1%) upon the gross proceeds or gross  
21 receipts derived from all sales or services in the county upon which  
22 a consumer's sales tax is levied by the state, except as provided in  
23 Section 2 of this act, subject to the following conditions:

24

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

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

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

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

12          SECTION 5.        AMENDATORY        68 O.S. 2001, Section 1370.2, is  
13 amended to read as follows:

14          Section 1370.2 Notwithstanding the provisions of Section 1370  
15 of this title, any county of this state with a population of more  
16 than three hundred thousand (300,000) according to the latest  
17 Federal Decennial Census may levy a sales tax of not to exceed one  
18 percent (1%) upon the gross proceeds or gross receipts derived from  
19 all sales or services in the county upon which a consumer's sales  
20 tax is levied by the state, except as provided in ~~subsection (F)~~  
21 paragraph 8 of Section 1357 of this title and Section 2 of this act,  
22 subject to the following conditions:

23          1. The proceeds of such sales tax and the interest thereon  
24 shall be used solely for the purpose of development of qualified

1 aircraft maintenance or manufacturing facilities and any necessary  
2 infrastructure changes or airport improvements directly related to  
3 such facilities located within the county to be owned by the county,  
4 any municipality within the county or a public trust in which the  
5 county or municipality is a beneficiary. However, such municipality  
6 or public trust shall hold such title for the use and benefit of the  
7 residents of the entire county in which the tax is levied and  
8 collected. The acceptance by the municipality or public trust of  
9 any title or tax proceeds shall be deemed an acceptance of this  
10 requirement. The board of county commissioners of any county that  
11 has approved the imposition of a sales tax pursuant to this section  
12 may not commence the collection of any such sales tax until a  
13 qualified aircraft maintenance or manufacturing facility has signed  
14 an agreement to locate such facility within the county. As used in  
15 this paragraph, "qualified aircraft maintenance or manufacturing  
16 facility" means a new or expanding facility primarily engaged in  
17 aircraft repair, building or rebuilding, whether or not on a factory  
18 basis, whose total cost of construction exceeds the sum of One  
19 Hundred Fifty Million Dollars (\$150,000,000.00) and which employs at  
20 least one thousand (1,000) new full-time-equivalent employees, as  
21 certified by the Employment Security Commission upon completion of  
22 the facility;

23 2. Before a sales tax may be levied by the county, the  
24 imposition of the tax shall first be approved by a majority of the

1 registered voters of the county voting thereon at a special election  
2 called by resolution of the board of county commissioners;

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

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

11 SECTION 6. AMENDATORY 68 O.S. 2001, Section 1370.2A, is  
12 amended to read as follows:

13 Section 1370.2A Notwithstanding the provisions of Section 1370  
14 of this title, any county of this state with a population of more  
15 than three hundred thousand (300,000) according to the latest  
16 Federal Decennial Census may levy a sales tax of not to exceed one  
17 percent (1%) upon the gross proceeds or gross receipts derived from  
18 all sales or services in the county upon which a consumer's sales  
19 tax is levied by the state, except as provided in paragraph 8 of  
20 Section 1357 of this title and Section 2 of this act, subject to the  
21 following conditions:

22 1. The proceeds of such sales tax and the interest thereon  
23 shall be used solely for the purpose of acquisition and development  
24 of qualified manufacturing facilities, related machinery and

1 equipment and any necessary infrastructure changes or improvements  
2 related to such facilities located within the county to be owned by  
3 the county, any municipality within the county or a public trust in  
4 which the county or municipality is a beneficiary. However, such  
5 municipality or public trust shall hold such title for the use and  
6 benefit of the residents of the entire county in which the tax is  
7 levied and collected. The acceptance by the municipality or public  
8 trust of any title or tax proceeds shall be deemed an acceptance of  
9 this requirement. The board of county commissioners of any county  
10 that has approved the imposition of a sales tax pursuant to this  
11 section may not commence the collection of any such sales tax until  
12 a qualified manufacturing facility has signed an agreement to locate  
13 such facility within the county. As used in this paragraph,  
14 "qualified manufacturing facility" means a new or expanding facility  
15 primarily engaged in manufacturing, production and/or assembly of  
16 consumer or other products, whether or not on a factory basis, whose  
17 total cost of acquisition and construction exceeds the sum of  
18 Fifteen Million Dollars (\$15,000,000.00) and which will employ at  
19 least one thousand (1,000) new full-time-equivalent employees, as  
20 certified by the Employment Security Commission within three (3)  
21 years after the completion of the facility;

22 2. Before a sales tax may be levied by the county, the  
23 imposition of the tax shall first be approved by a majority of the  
24 registered voters of the county voting thereon at a special election

1 called by resolution of the board of county commissioners in the  
2 manner provided by law for county elections;

3 3. The monies collected pursuant to the provisions of this  
4 section shall only be expended by the board of county commissioners  
5 to finance an amount not to exceed twenty-five percent (25%) of the  
6 total cost related to the acquisition and construction of the  
7 qualified manufacturing facility, related machinery and equipment  
8 and any necessary infrastructure changes or improvements directly  
9 related to such facility; and

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

12 SECTION 7. AMENDATORY 68 O.S. 2001, Section 1370.4, is  
13 amended to read as follows:

14 Section 1370.4 Notwithstanding the provisions of Section 1370  
15 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of this  
16 state with a population of more than three hundred thousand  
17 (300,000) according to the latest Federal Decennial Census may levy  
18 a sales tax of not to exceed one percent (1%) upon the gross  
19 proceeds or gross receipts derived from all sales or services in the  
20 county upon which a consumer's sales tax is levied by the state,  
21 except as provided in ~~subsection (F)~~ paragraph 8 of Section 1357 of  
22 ~~Title 68 of the Oklahoma Statutes~~ this title and Section 2 of this  
23 act, subject to the following conditions:

24

1           1. The proceeds of such sales tax and the interest thereon  
2 shall be used solely for the purpose of development of facilities  
3 for lease or conveyance to the government of the United States and  
4 any necessary infrastructure changes or improvements directly  
5 related to such facilities located within the county. The board of  
6 county commissioners of any county that has approved the imposition  
7 of a sales tax pursuant to this section may not commence the  
8 collection of any such sales tax until an agreement to locate such  
9 facility within the county is reached;

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

14           3. The monies collected pursuant to the provisions of this  
15 section shall only be expended by the board of county commissioners  
16 to finance the construction of the facility and any necessary  
17 infrastructure changes or improvements directly related to such  
18 facility; and

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

21           SECTION 8.           AMENDATORY           68 O.S. 2001, Section 1370.5, is  
22 amended to read as follows:

23           Section 1370.5 A. Notwithstanding the provisions of Section  
24 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of

1 this state with a population of more than three hundred thousand  
2 (300,000) according to the latest Federal Decennial Census may levy  
3 a sales tax of not to exceed one percent (1%) upon the gross  
4 proceeds or gross receipts derived from all sales or services in the  
5 county upon which a consumer's sales tax is levied by the state,  
6 except as provided in paragraph ~~6~~ 8 of Section 1357 of ~~Title 68 of~~  
7 ~~the Oklahoma Statutes~~ this title and Section 2 of this act, subject  
8 to the following conditions:

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

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

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

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

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

1 shall be expended only as accumulated and only for the purpose  
2 specifically described in paragraph 1 of subsection A of this  
3 section.

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

8 SECTION 9. AMENDATORY 68 O.S. 2001, Section 1370.6, is  
9 amended to read as follows:

10 Section 1370.6 A. Notwithstanding the provisions of Section  
11 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of  
12 this state with a population of more than three hundred thousand  
13 (300,000) according to the latest Federal Decennial Census may levy  
14 a sales tax of not to exceed one percent (1%) upon the gross  
15 proceeds or gross receipts derived from all sales or services in the  
16 county upon which a consumer's sales tax is levied by the state,  
17 except as provided in paragraph ~~6~~ 8 of Section 1357 of ~~Title 68 of~~  
18 ~~the Oklahoma Statutes~~ this title and Section 2 of this act, subject  
19 to the following conditions:

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

22 2. Before a sales tax may be levied by the county, the  
23 imposition of the tax shall first be approved by a majority of the  
24

1 registered voters of the county voting thereon at a special election  
2 called by resolution of the board of county commissioners;

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

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

7 B. The board of county commissioners shall create a limited-  
8 purpose fund and deposit therein any revenue generated by any sales  
9 tax levied pursuant to the provisions of subsection A of this  
10 section. The fund shall be placed in an insured interest-bearing  
11 account and the interest which accrues to the fund shall be retained  
12 in the fund. Monies in the limited-purpose fund shall be expended  
13 only as accumulated and only for the purpose specifically described  
14 in paragraph 1 of subsection A of this section.

15 C. As used in this section:

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

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

1 SECTION 10. AMENDATORY 68 O.S. 2001, Section 1370.7, as  
2 last amended by Section 1, Chapter 308, O.S.L. 2006 (68 O.S. Supp.  
3 2008, Section 1370.7), is amended to read as follows:

4 Section 1370.7 A. Any combination of cities, towns and  
5 counties, by resolution of their governing boards, may jointly  
6 create a transportation authority or regional economic development  
7 authority pursuant to the provisions of Section 176 of Title 60 of  
8 the Oklahoma Statutes for the purpose of planning, financing and  
9 constructing transportation or regional economic development  
10 projects located within the boundaries of such cities, towns or  
11 counties. An authority created pursuant to the provisions of this  
12 subsection shall have the powers granted pursuant to the provisions  
13 of Section 176 of Title 60 of the Oklahoma Statutes in addition to  
14 the powers granted pursuant to the provisions of this section except  
15 that no regional economic development authority created pursuant to  
16 the provisions of this subsection shall have any power or authority  
17 to exercise or to attempt to exercise any powers of eminent domain.  
18 The combination of cities, towns and counties creating the authority  
19 shall be designated the beneficiary of the authority. The  
20 boundaries of the authority shall be coterminous with the boundaries  
21 of the cities, towns or counties creating the authority.

22 B. Any transportation authority or regional economic  
23 development authority created pursuant to the provisions of  
24 subsection A of this section may levy a sales tax of not to exceed

1 two percent (2%) upon the gross proceeds or gross receipts derived  
2 from all sales or services in the cities, towns and counties  
3 comprising the authority upon which a consumer's sales tax is levied  
4 by this state. Before a sales tax may be levied by the authority,  
5 the imposition of the tax shall first be approved by a majority of  
6 the registered voters within the boundaries of each of the cities,  
7 towns and counties comprising the authority voting thereon at a  
8 special election jointly called by the governing boards of the  
9 cities, towns and counties comprising the authority. Provided, if a  
10 majority of the registered voters of an authority voting fail to  
11 approve such a tax, the governing boards of such cities, towns and  
12 counties shall not jointly call another special election for such  
13 purpose for at least six (6) months. Any sales tax approved by the  
14 registered voters of an authority shall be applicable only when the  
15 point of sale is within the boundaries or limits of the authority.

16 C. All items that are exempt from the state sales tax shall be  
17 exempt from any sales tax levied pursuant to the provisions of this  
18 section; however, this subsection shall not apply to the tax rate  
19 set forth in Section 2 of this act.

20 D. Any sales tax which may be levied pursuant to the provisions  
21 of this section shall be designated for the purposes of planning,  
22 financing and constructing transportation or regional economic  
23 development projects within the boundaries of the authority. The  
24 authority shall identify the purpose of the sales tax when it is

1 presented to the voters pursuant to the provisions of this section.  
2 The proceeds of any sales tax levied by an authority shall be used  
3 only for the purposes for which the sales tax was designated.

4 E. The authority shall identify the specific duration of the  
5 tax when it is presented to the voters pursuant to the provisions of  
6 this section and shall include specific language in the ballot title  
7 disclosing the duration of the tax. A levy by a transportation  
8 authority or a regional economic development authority shall have a  
9 maximum duration of thirty (30) years if the proceeds from the tax  
10 are pledged to the repayment of indebtedness and a maximum duration  
11 of twenty (20) years if the proceeds from the tax are to be used for  
12 expenditures other than the repayment of indebtedness.

13 F. An authority created pursuant to the provisions of  
14 subsection A of this section may utilize the provisions of the Local  
15 Development Act as it relates to the financing of such  
16 transportation or regional economic development projects.

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

19 1. At such time as the planning, financing and constructing of  
20 the transportation or regional economic development project within  
21 the boundaries of the authority is completed; and

22 2. At such time as the revenue collected from any taxes levied  
23 by the authority is sufficient for payment of any and all expenses  
24 incurred by the authority in the planning, financing and

1 constructing of a transportation or regional economic development  
2 project.

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

9 I. If the revenue collected from any taxes levied by the  
10 authority exceeds the amount necessary for payment of any and all  
11 expenses incurred by the authority in the planning, financing and  
12 constructing of transportation or regional economic development  
13 projects, the excess funds shall be apportioned to the general funds  
14 of the cities, towns and counties comprising the authority in  
15 proportion to the population of each city, town and county.

16 J. A transportation authority created pursuant to the  
17 provisions of subsection A of this section may provide for the  
18 financing of a toll bridge utilizing any revenue measures available  
19 pursuant to subsections A through I of this section in combination  
20 with revenue derived from toll charges. Such combination financing  
21 shall be fully described in the resolution of the transportation  
22 authority which authorizes the construction of such toll bridge.  
23 The resolution shall set out minimum and maximum percentages of the

24

1 total debt which shall be retired utilizing revenue received from  
2 toll charges.

3 SECTION 11. AMENDATORY 68 O.S. 2001, Section 1370.8, as  
4 amended by Section 2, Chapter 103, O.S.L. 2004 (68 O.S. Supp. 2008,  
5 Section 1370.8), is amended to read as follows:

6 Section 1370.8 A. Any combination of cities, towns and  
7 counties, by resolution of their governing boards, may jointly  
8 create a hospital authority pursuant to the provisions of Section  
9 176 of Title 60 of the Oklahoma Statutes for the purpose of  
10 planning, financing and constructing hospitals or related medical  
11 facilities located within the boundaries of such cities, towns or  
12 counties. An authority created pursuant to the provisions of this  
13 subsection shall have the powers granted pursuant to the provisions  
14 of Section 176 of Title 60 of the Oklahoma Statutes in addition to  
15 the powers granted pursuant to the provisions of this section. The  
16 combination of cities, towns and counties creating the authority  
17 shall be designated the beneficiary of the authority. The  
18 boundaries of the authority shall be coterminous with the boundaries  
19 of the cities, towns or counties creating the authority.

20 B. Any hospital authority created pursuant to the provisions of  
21 subsection A of this section may levy a sales tax of not to exceed  
22 two percent (2%) upon the gross proceeds or gross receipts derived  
23 from all sales or services in the cities, towns and counties  
24 comprising the authority upon which a consumer's sales tax is levied

1 by this state. Before a sales tax may be levied by the authority,  
2 the imposition of the tax shall first be approved by a majority of  
3 the registered voters within the boundaries of each of the cities,  
4 towns and counties comprising the authority voting thereon at a  
5 special election jointly called by the governing boards of the  
6 cities, towns and counties comprising the authority. Provided, if a  
7 majority of the registered voters of an authority voting fail to  
8 approve such a tax, the governing boards of such cities, towns and  
9 counties shall not jointly call another special election for such  
10 purpose for at least six (6) months. Any sales tax approved by the  
11 registered voters of an authority shall be applicable only when the  
12 point of sale is within the boundaries or limits of the authority.

13 C. All items that are exempt from the state sales tax shall be  
14 exempt from any sales tax levied pursuant to the provisions of this  
15 section; however, this subsection shall not apply to the tax rate  
16 set forth in Section 2 of this act.

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

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

4 F. An authority created pursuant to the provisions of  
5 subsection A of this section may utilize the provisions of the Local  
6 Development Act as it relates to the financing of such hospitals or  
7 related medical facilities.

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

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

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

17 H. If the proceeds of any tax levied by an authority pursuant  
18 to this section are pledged for the purpose of retiring indebtedness  
19 incurred for the specific purpose for which the tax is imposed, the  
20 tax shall not be repealed until such time as the indebtedness is  
21 retired. Notwithstanding any other provisions of law, any county or  
22 hospital authority that has approved a sales tax for the support and  
23 operation of a county hospital may continue to collect such tax if  
24 such hospital is subsequently sold. Such collection shall only

1 continue if the county or hospital authority remains indebted for  
2 the support and operation of such hospital and only until the debt  
3 is repaid or for the stated term of the tax, whichever period is  
4 shorter. In no event shall the life of the tax be extended beyond  
5 the duration approved by the voters of the authority.

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

13 J. If the construction, support, or operation of a hospital is  
14 funded through the levy of a sales tax by a county or hospital  
15 authority pursuant to this section and such hospital is subsequently  
16 sold, the county or hospital authority levying the tax may dissolve  
17 the governing board of such hospital at the time of the sale. When  
18 the sale of the hospital and dissolution of any governing board is  
19 final, the county or hospital authority is thereby relieved of any  
20 liability for the operation of such hospital.

21 SECTION 12. AMENDATORY 68 O.S. 2001, Section 2701, as  
22 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
23 2008, Section 2701), is amended to read as follows:

24

1 Section 2701. A. Any incorporated city or town in this state  
2 is hereby authorized to assess, levy, and collect taxes for general  
3 and special purposes of municipal government as the Legislature may  
4 levy and collect for purposes of state government, subject to the  
5 provisions of subsection F of this section and except as provided in  
6 Section 2 of this act, except ad valorem property taxes. Provided:

7 1. Taxes shall be uniform upon the same class subjects, and any  
8 tax, charge, or fee levied upon or measured by income or receipts  
9 from the sale of products or services shall be uniform upon all  
10 classes of taxpayers;

11 2. Motor vehicles may be taxed by the city or town only when  
12 such vehicles are primarily used or located in such city or town for  
13 a period of time longer than six (6) months of a taxable year;

14 3. The provisions of this section shall not be construed to  
15 authorize imposition of any tax upon persons, firms, or corporations  
16 exempted from other taxation under the provisions of Sections 348.1,  
17 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
18 payment of taxes imposed under such sections;

19 4. Cooperatives and communications companies are hereby  
20 authorized to pass on to their subscribers in the incorporated city  
21 or town involved, the amount of any special municipal fee, charge or  
22 tax hereafter assessed or levied on or collected from such  
23 cooperatives or communications companies;

24

1 5. No earnings, payroll or income taxes may be levied on  
2 nonresidents of the cities or towns levying such tax;

3 6. The governing body of any city or town shall be prohibited  
4 from proposing taxing ordinances more often than three times in any  
5 calendar year, or twice in any six-month period; and

6 7. Any revenues derived from a tax authorized by this  
7 subsection not dedicated to a limited purpose shall be deposited in  
8 the municipal general fund.

9 B. A sales tax authorized in subsection A of this section may  
10 be levied for limited purposes specified in the ordinance levying  
11 the tax. Such ordinance shall be submitted to the voters for  
12 approval as provided in Section 2705 of this title. Any sales tax  
13 levied or any change in the rate of a sales tax levied pursuant to  
14 the provisions of this section shall become effective on the first  
15 day of the calendar quarter following approval by the voters of the  
16 city or town unless another effective date, which shall also be on  
17 the first day of a calendar quarter, is specified in the ordinance  
18 levying the sales tax or changing the rate of sales tax. Such  
19 ordinance shall describe with specificity the projects or  
20 expenditures for which the limited-purpose tax levy would be made.  
21 The municipal governing body shall create a limited-purpose fund and  
22 deposit therein any revenue generated by any tax levied pursuant to  
23 this subsection. Money in the fund shall be accumulated from year  
24 to year. The fund shall be placed in an insured interest-bearing

1 account and the interest which accrues on the fund shall be retained  
2 in the fund. The fund shall be nonfiscal and shall not be  
3 considered in computing any levy when the municipality makes its  
4 estimate to the excise board for needed appropriations. Money in  
5 the limited-purpose tax fund shall be expended only as accumulated  
6 and only for the purposes specifically described in the taxing  
7 ordinance as approved by the voters.

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

18 D. The change in the boundary of a municipality shall be  
19 effective, for sales and use tax purposes only, on the first day of  
20 a calendar quarter after a minimum of sixty (60) days' notice to  
21 vendors.

22 E. If the proceeds of any sales tax levied by a municipality  
23 pursuant to subsection B of this section are being used by the  
24 municipality for the purpose of retiring indebtedness incurred by

1 the municipality or by a public trust of which the municipality is a  
2 beneficiary for the specific purpose for which the sales tax was  
3 imposed, the sales tax shall not be repealed until such time as the  
4 indebtedness is retired. However, in no event shall the life of the  
5 tax be extended beyond the duration approved by the voters of the  
6 municipality. The provisions of this subsection shall apply to all  
7 sales tax levies imposed by a municipality and being used by the  
8 municipality for the purposes set forth in this subsection prior to  
9 or after July 1, 1995.

10 F. The sale of an article of clothing or footwear designed to  
11 be worn on or about the human body shall be exempt from the sales  
12 tax imposed by any incorporated city or town, in accordance with and  
13 to the extent set forth in Section ~~3~~ 1357.10 of this ~~act~~ title.

14 SECTION 13. This act shall become effective July 1, 2009.

15 SECTION 14. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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