

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2067

By: McNeil

6  
7 COMMITTEE SUBSTITUTE

8 ( Community economic development - Oklahoma Community  
9 Economic Development Pooled Finance Act - Community  
10 Economic Development Pooled Finance Revolving Fund  
11 - amending 68 O.S. 2001, Section 2705 - municipal  
12 tax levies - amending 68 O.S. 2001, Section 1370 -  
13 county sales tax levy - amending 74 O.S. 2001,  
14 Section 1004 - Interlocal Cooperation Act -  
15 codification - severability -  
16 effective date. )

17  
18  
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 891.1 of Title 62, unless there  
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Oklahoma  
24 Community Economic Development Pooled Finance Act".

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 891.2 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4           The Legislature finds investments for the purpose of economic  
5 development of the State of Oklahoma, including but not limited to  
6 authorized economic development projects for the purpose of  
7 attracting private investment and job creation, public  
8 infrastructure to aid development such as roads, bridges, water  
9 treatment, water storage and water delivery facilities, surface  
10 water management assets, sanitary sewer facilities and related  
11 assets, and other assets owned or maintained by the counties, cities  
12 and towns of the state are essential to a safe and productive  
13 environment for the residents of the state and visitors to the  
14 state. The Legislature further finds that existing fiscal resources  
15 at the local government level are not always sufficient to maintain  
16 the highest possible standards of safety or quality and that it is  
17 an essential function of state government to ensure that critical  
18 infrastructure is constructed, maintained and repaired in conformity  
19 with such highest possible standards. The Legislature finds that  
20 encouraging local governments to cooperate to develop regional  
21 infrastructure and economic development projects will most  
22 economically and efficiently serve the needs of the state's  
23 citizens. The Legislature finds that the methods of public finance  
24 provided for in the Oklahoma Community Economic Development Pooled

1 Finance Act are in furtherance of an essential public and state  
2 governmental function.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 891.3 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 As used in this act:

7 1. "Authority" means the Oklahoma Development Finance  
8 Authority;

9 2. "Bonds" means any form of obligation issued by the Oklahoma  
10 Development Finance Authority pursuant to this act;

11 3. "Business entity" means a corporation, limited liability  
12 company, general partnership, limited partnership, or such other  
13 entity conducting a lawful activity which is organized pursuant to  
14 the laws of the state or which is authorized to do business in the  
15 state if organized under the law of another jurisdiction;

16 4. "Community Economic Development Pooled Finance Revolving  
17 Fund" means the fund created pursuant to Section 15 of this act;

18 5. "Conduit issuer" means the Oklahoma Development Finance  
19 Authority acting for the benefit of either a business entity or  
20 local government entity pursuant to the provisions of this act;

21 6. "Credit Enhancement Reserve Fund" means that fund created  
22 pursuant to Section 5063.3 of Title 74 of the Oklahoma Statutes;

23 7. "Debt" means bonds, notes, or other evidence of indebtedness  
24 issued by the Oklahoma Development Finance Authority;

1 8. "Department" means the Oklahoma Department of Commerce;

2 9. "Economic Development Pool" means proceeds of obligations  
3 sold by the Authority to provide resources for eligible local  
4 government entities to finance an eligible economic development  
5 project;

6 10. "Eligible local government entity" means:

7 a. a city,

8 b. a town,

9 c. a county,

10 d. any combination of cities, towns, or counties, or

11 e. a public trust with a beneficiary or beneficiary which  
12 is a city, town, county or some combination of such  
13 entities as authorized by Section 176 of Title 60 of  
14 the Oklahoma Statutes;

15 11. "For-profit business" means any lawful activity conducted  
16 by a business entity with the goal or expectation of selling goods,  
17 services or other property at a price greater than the actual costs  
18 incurred by the business;

19 12. "Infrastructure" means:

20 a. county roads,

21 b. county bridges,

22 c. municipal streets,

23 d. municipal bridges,

24 e. water treatment facilities,

- 1 f. solid waste management facilities,
- 2 g. water treatment and distribution systems, or
- 3 h. any asset or project identified by the eligible local
- 4 government entities necessary for essential government
- 5 functions if the asset is owned by a local government
- 6 entity or entities;

7 13. "Infrastructure Pool" means proceeds of obligations sold by  
8 the Authority to provide resources for eligible local government  
9 entities to provide financing for infrastructure;

10 14. "Pooled financing" means an agreement, pursuant to the  
11 provisions of this act or pursuant to the Interlocal Cooperation  
12 Act, among two or more eligible local governmental entities to use  
13 proceeds from a tax levy or other authorized source of revenue to  
14 make payments of principal, interest, and other related costs in  
15 connection with an obligation issued by the Oklahoma Development  
16 Finance Authority for the benefit of the entities entering into such  
17 agreement according to the terms of the agreement and according to  
18 the requirements of any ballot submitted to the voters of the  
19 respective eligible local governmental entities. Pooled financing  
20 does not mean or include the use of any ad valorem tax revenues  
21 derived from a levy imposed pursuant to Section 26 of Article X of  
22 the Oklahoma Constitution; and

23 15. "Private activity bonds" means those obligations the  
24 interest income from which may be exempt from federal income tax

1 pursuant to the provisions of the Internal Revenue Code of 1986, as  
2 amended.

3 SECTION 4. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 891.4 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 Unless otherwise provided by the terms, definitions or other  
7 provisions of the Oklahoma Community Economic Development Pooled  
8 Finance Act, the powers, rights, duties and limitations applicable  
9 to the Oklahoma Development Finance Authority pursuant to the  
10 provisions of the Oklahoma Development Finance Authority Act shall  
11 be applicable to the Authority and transactions conducted pursuant  
12 to the Oklahoma Community Economic Development Pooled Finance Act.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 891.5 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. To the extent that the provisions of the Credit Enhancement  
17 Reserve Fund Act are consistent with the provisions of the Oklahoma  
18 Community Economic Development Pooled Finance Act, the provisions of  
19 the Credit Enhancement Reserve Fund Act shall be applicable to a  
20 pooled financing.

21 B. The Credit Enhancement Reserve Fund shall not be utilized in  
22 support of any pooled financing obligations issued pursuant to this  
23 act prior to the full use of any revenues committed to the repayment  
24 of any such obligations pursuant to an agreement or agreements among

1 the participating local government entities for the repayment of  
2 principal, interest and other costs of the pooled financing.

3 C. Agreements entered into pursuant to this act may provide for  
4 one or more of the participating local government entities to make  
5 deposits in the Community Economic Development Pooled Finance  
6 Revolving Fund in excess of the amount originally provided for in  
7 any agreement authorized by this act in order to compensate for the  
8 payments otherwise required to be made by any other participating  
9 local government entity which is a party to the same agreement.

10 D. If any participating local government entity does not make  
11 deposits in the Community Economic Development Pooled Finance  
12 Revolving Fund as originally required by an agreement authorized by  
13 this act, such local government entity shall be required to  
14 compensate the other participating local government entity or  
15 entities pursuant to the terms of the agreement for the amounts paid  
16 on its behalf, including interest.

17 E. Any local government entity that does not make deposits in  
18 the Community Economic Development Pooled Finance Revolving Fund  
19 according to the terms of an agreement authorized by this act shall  
20 be prohibited from participation in any other pooled financing  
21 otherwise authorized by this act for a period of five (5) years from  
22 the date of the first date upon which a required deposit to the  
23 Community Economic Development Pooled Finance Revolving Fund is not  
24 made or for a period of five (5) years from the first date upon

1 which a payment is made on a timely basis, but for less than the  
2 amount required pursuant to the terms of an agreement authorized  
3 pursuant to this act.

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 891.6 of Title 62, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. No bonds or other obligations issued by the Authority  
8 pursuant to the provisions of the Oklahoma Community Economic  
9 Development Pooled Finance Act shall be considered or deemed to be  
10 general obligations of the State of Oklahoma. Such bonds or other  
11 obligations shall be special and limited obligations the repayment  
12 of which shall be derived exclusively from the revenues accruing to  
13 the credit of the Community Economic Development Pooled Finance  
14 Revolving Fund created pursuant to Section 15 of this act.

15 B. The obligations issued by the Authority pursuant to this act  
16 shall have a maximum maturity of twenty-five (25) years.

17 C. The average coupon rate for any obligations issued by the  
18 Authority pursuant to this act shall not exceed fourteen percent  
19 (14%) per annum.

20 SECTION 7. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 891.7 of Title 62, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. The Authority shall be authorized to act as a conduit issuer  
24 for the benefit of two or more eligible local government entities

1 for an authorized infrastructure project using the Infrastructure  
2 Pool.

3 B. The Authority shall be authorized to issue its obligations  
4 in order to provide net proceeds on a pooled basis not to exceed One  
5 Hundred Million Dollars (\$100,000,000.00) for the Infrastructure  
6 Pool.

7 C. The proceeds from the Infrastructure Pool shall be for the  
8 purpose of providing financing for two or more eligible local  
9 government entities for an authorized infrastructure project  
10 involving a pooled financing.

11 D. Sixty-five percent (65%) of the net proceeds from the  
12 Infrastructure Pool shall be used by the Authority for the benefit  
13 of eligible local government entities the population of which,  
14 according to the most recent federal Decennial Census, does not  
15 exceed:

16 1. Three hundred thousand (300,000) persons for any  
17 participating municipality; or

18 2. Two hundred thousand (200,000) persons for any participating  
19 county.

20 E. Thirty-five percent (35%) of the net proceeds from the  
21 Infrastructure Pool may be used by the Authority for the benefit of  
22 any and all eligible local government entities regardless of  
23 population.

24

1 SECTION 8. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 891.8 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The Authority shall be authorized to act as a conduit issuer  
5 for the benefit of two or more eligible local government entities or  
6 for the benefit of a business entity for an authorized economic  
7 development project using the Economic Development Pool.

8 B. The Authority shall be authorized to issue its obligations  
9 in order to provide net proceeds on a pooled basis not to exceed One  
10 Hundred Million Dollars (\$100,000,000.00) for the Economic  
11 Development Pool.

12 C. The proceeds from the Economic Development Pool shall be for  
13 the purpose of providing financing for an eligible local government  
14 entity or entities or for the benefit of a business entity for an  
15 authorized economic development project.

16 D. Sixty-five percent (65%) of the net proceeds from the  
17 Economic Development Pool shall be used by the Authority for the  
18 benefit of eligible local government entities the population of  
19 which, according to the most recent federal Decennial Census, does  
20 not exceed:

21 1. Three hundred thousand (300,000) persons for any  
22 participating municipality; or

23 2. Two hundred thousand (200,000) persons for any participating  
24 county.

1 E. Thirty-five percent (35%) of the net proceeds from the  
2 Economic Development Pool may be used by the Authority for the  
3 benefit of any and all eligible local government entities regardless  
4 of population.

5 F. Obligations issued pursuant to the provisions of this  
6 section may be issued on a tax-exempt basis if the applicable  
7 provisions of federal law governing private activity bonds allow  
8 such issuance. Otherwise, the obligations issued pursuant to the  
9 provisions of this section shall be issued on a taxable basis.

10 SECTION 9. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 891.9 of Title 62, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. With respect to an eligible project financed through the  
14 Infrastructure Pool, local government entities shall be required to  
15 be financially responsible for the repayment of the debt issued by  
16 the Oklahoma Development Finance Authority.

17 B. With respect to obligations incurred by the Authority for an  
18 authorized infrastructure project, local government entities shall  
19 make payments to the Oklahoma Development Finance Authority for  
20 principal, interest, required reserve amounts, and any other amount  
21 required in order to make the obligations issued by the Authority  
22 marketable.

23 C. Repayment by local government entities pursuant to the  
24 provisions of this section shall consist of authorized revenue

1 sources including, but not limited to, taxes levied by the local  
2 government entities or which are available for use by such entities  
3 pursuant to the provisions of Section 1370 of Title 68 of the  
4 Oklahoma Statutes, Section 2701 et seq. of Title 68 of the Oklahoma  
5 Statutes and the provisions of Sections 13 and 14 of this act.

6 D. The Authority shall use the monies in the Community Economic  
7 Development Pooled Finance Revolving Fund created by Section 15 of  
8 this act in order to make payments of principal, interest and other  
9 costs.

10 SECTION 10. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 891.10 of Title 62, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. The Oklahoma Department of Commerce shall promulgate rules  
14 for purposes of establishing criteria for the funding of authorized  
15 infrastructure projects from the proceeds of obligations issued by  
16 the Authority for the Infrastructure Pool.

17 B. The criteria shall be similar to the criteria used by the  
18 federal government in administering the Community Development Block  
19 Grant program.

20 C. A combination of eligible local government entities shall  
21 apply to the Department for approval of a pooled financing for an  
22 infrastructure project on such forms as the Department may prescribe  
23 for such purpose.

24

1 D. The Department shall compile and maintain a prioritized list  
2 of infrastructure projects eligible for pooled financing through the  
3 Oklahoma Development Finance Authority.

4 E. The Oklahoma Development Finance Authority shall use the  
5 prioritized list provided by the Department in order to provide  
6 financing to the eligible local government entities.

7 F. The Authority shall, within the limit on available bond  
8 proceeds in the Infrastructure Pool, provide proceeds in accordance  
9 with the scoring system used by the Department.

10 SECTION 11. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 891.11 of Title 62, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. The Oklahoma Department of Commerce shall establish a  
14 scoring system in order to evaluate economic development projects to  
15 be financed from the proceeds of obligations issued by the Authority  
16 for the Economic Development Pool.

17 B. The scoring system shall include, but shall not be limited  
18 to, analysis of:

19 1. Capital investment by a for-profit business entity;

20 2. New direct jobs, as such term is defined by Section 3603 of  
21 Title 68 of the Oklahoma Statutes, to be created by a for-profit  
22 business entity or entities;

23 3. Salary and wage payments to persons employed in new direct  
24 jobs; and

1           4. Likelihood of additional business location decisions  
2 resulting from the activity of the for-profit business entity or  
3 entities that would benefit from use of the Economic Development  
4 Pool.

5           C. An eligible local government entity or a combination of  
6 eligible local government entities may apply to the Department for  
7 approval of a pooled financing for an economic development project  
8 on such forms as the Department may prescribe for such purpose.

9           D. The Department shall compile and maintain a prioritized list  
10 of projects eligible for pooled financing through the Oklahoma  
11 Development Finance Authority from the Economic Development Pool.

12           E. The Oklahoma Development Finance Authority shall use the  
13 prioritized list provided by the Department in order to provide  
14 financing to the eligible local government entities.

15           F. The Authority shall, within the limit on available bond  
16 proceeds in the Economic Development Pool, provide proceeds in  
17 accordance with the scoring system used by the Department.

18           SECTION 12.        NEW LAW        A new section of law to be codified  
19 in the Oklahoma Statutes as Section 891.12 of Title 62, unless there  
20 is created a duplication in numbering, reads as follows:

21           A. Any for-profit business entity that receives proceeds from  
22 the issuance of any obligations by the Authority from the Economic  
23 Development Pool may be required by the applicable local government  
24 entity to enter into such agreements as may be required between the

1 entity, the local government entity, the Authority and the Oklahoma  
2 Tax Commission to provide for the segregation of withholding taxes  
3 attributable to new direct jobs created or existing payroll retained  
4 by the for-profit business entity in connection with the asset or  
5 assets acquired, constructed or improved with such proceeds.

6 B. The amount of withholding taxes subject to the provisions of  
7 this section shall, together with other revenue sources or  
8 commitments and undertakings by the for-profit business entity or  
9 third parties, be sufficient to make payment of any required  
10 principal, interest, adequate reserves or other authorized costs for  
11 the borrowing by the Authority.

12 C. The Authority shall have such power of approval regarding  
13 the amount and duration of withholding tax segregation pursuant to  
14 the provisions of this section in order to ensure payment of its  
15 obligations and to promote the marketability of such obligations.

16 D. The Authority shall obtain information from the for-profit  
17 business entity as may be required in order to determine the  
18 necessary amount of segregated withholding taxes attributable to new  
19 direct jobs or existing payroll.

20 E. The Oklahoma Tax Commission shall determine with respect to  
21 the withholding taxes attributable to the income of employees  
22 engaged in new direct jobs or existing jobs for a for-profit  
23 business entity participating in a pooled financing pursuant to the  
24 Oklahoma Community Economic Development Pooled Finance Act the

1 amount of such withholding taxes required to be deposited to the  
2 credit of the Community Economic Development Pooled Finance  
3 Revolving Fund.

4 F. The Oklahoma Tax Commission shall make a deposit in the  
5 Community Economic Development Pooled Finance Revolving Fund in  
6 accordance with any applicable agreement entered into by a for-  
7 profit business entity participating in a pooled financing pursuant  
8 to the Oklahoma Community Economic Development Pooled Finance Act.

9 SECTION 13. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 891.13 of Title 62, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. As used in this section:

13 1. "Authority" means the Oklahoma Development Finance  
14 Authority;

15 2. "Eligible local government entity" means:

16 a. a city,

17 b. a town,

18 c. a county,

19 d. any combination of cities, towns, or counties, or

20 e. a public trust with a beneficiary or beneficiary which  
21 is a city, town, county or some combination of such  
22 entities as authorized by Section 176 of Title 60 of  
23 the Oklahoma Statutes;

24

1 3. "Existing levy" means a tax or other revenue-raising  
2 mechanism approved by the voters of a county, city or town prior to  
3 the effective date of this act;

4 4. "Municipality" means an incorporated city or town; and

5 5. "Pooled financing" means the use of municipal revenues,  
6 derived from a levy imposed pursuant to the authority of Section  
7 2701 of Title 68 of the Oklahoma Statutes, available to one or more  
8 municipalities or county revenues, derived from a levy imposed  
9 pursuant to the authority of Section 1370 of Title 68 of the  
10 Oklahoma Statutes, based upon the local government entity  
11 participating in a pooled financing.

12 B. Subject to the requirements of Section 2701 of Title 68 of  
13 the Oklahoma Statutes, one or more municipalities may submit to the  
14 respective voters of each such municipality the question of whether  
15 to impose a tax not previously imposed, authorized by Section 2701  
16 of Title 68 of the Oklahoma Statutes, in order to provide revenues  
17 to repay indebtedness incurred by the Authority for the purposes  
18 authorized by the Oklahoma Community Economic Development Pooled  
19 Finance Act. The provisions of this subsection shall be applicable  
20 to any one or more municipalities participating in a pooled  
21 financing, regardless of whether any other municipality, subject to  
22 voter approval, will be imposing a tax levy to be used for the  
23 purposes of this act for the first time or whether any one or more  
24 of such municipalities, subject to voter approval, will be modifying

1 the purposes of an existing tax levy to allow revenues to be used  
2 for the purposes of this act.

3 C. Subject to the requirements of Section 2701 of Title 68 of  
4 the Oklahoma Statutes, one or more municipalities may submit to the  
5 respective voters of each such municipality the question of whether  
6 to modify an existing tax levy, previously approved by the voters of  
7 such municipality, in order to allow the use of some part or all of  
8 the proceeds from the existing tax levy in order to provide revenues  
9 to repay indebtedness incurred by the Authority for the purposes  
10 authorized by this act. The provisions of this subsection shall be  
11 applicable to any one or more municipalities participating in a  
12 pooled financing, regardless of whether any other municipality,  
13 subject to voter approval, will be imposing a tax levy to be used  
14 for the purposes of this act for the first time or whether any one  
15 or more of such municipalities, subject to voter approval, will be  
16 modifying the purposes of an existing tax levy to allow revenues to  
17 be used for the purposes of this act.

18 D. Municipalities may submit questions authorized by this  
19 section regardless of whether the municipalities are contiguous or  
20 adjacent to one another.

21 E. A municipality that submits a question for the imposition of  
22 a dedicated tax levy pursuant to the provisions of this section  
23 shall specify the type of tax levy and the rate of the levy in the  
24

1 question submitted which shall be clearly identified by the wording  
2 of the ballot.

3 F. A municipality may impose a different tax levy or the same  
4 type of tax levy at a different rate than any other municipality or  
5 municipalities or a different tax levy or at a different tax rate  
6 than any other county or counties submitting a pooled financing  
7 question for voter approval.

8 G. The duration of the tax levy shall be identical in all  
9 questions submitted for voter approval and shall not exceed twenty-  
10 five (25) years.

11 H. The ballot for a pooled financing pursuant to the provisions  
12 of this act shall clearly indicate:

13 1. That the revenues from the tax levy are to be used for the  
14 payment of principal, interest and other costs of borrowing  
15 authorized by the provisions of this act;

16 2. The maximum maturity of the obligations to be repaid; and

17 3. The projects or assets to be acquired, constructed,  
18 improved, maintained or otherwise used by the municipality as a  
19 result of the imposition of the levy.

20 I. Revenues derived from a tax levy imposed pursuant to the  
21 provisions of this section shall be paid by the municipality or  
22 municipalities to the Community Economic Development Pooled Finance  
23 Revolving Fund created pursuant to Section 15 of this act.

24

1 J. No tax levy imposed pursuant to the provisions of this  
2 section shall be repealed until such time as the obligations issued  
3 by the Authority are fully paid. In no event shall the duration of  
4 the levy be extended beyond the duration approved by the voters of  
5 the municipality or municipalities.

6 SECTION 14. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 891.14 of Title 62, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. As used in this section:

10 1. "Authority" means the Oklahoma Development Finance  
11 Authority;

12 2. "Eligible local government entity" means:

13 a. a city,

14 b. a town,

15 c. a county,

16 d. any combination of cities, towns, or counties, or

17 e. a public trust with a beneficiary or beneficiary which  
18 is a city, town, county or some combination of such  
19 entities as authorized by Section 176 of Title 60 of  
20 the Oklahoma Statutes;

21 3. "Existing levy" means a tax or other revenue raising  
22 mechanism approved by the voters of a county, city or town prior to  
23 the effective date of this act;

24 4. "Municipality" means an incorporated city or town; and

1           5. "Pooled financing" means the use of municipal revenues,  
2 derived from a levy imposed pursuant to the authority of Section  
3 2701 of Title 68 of the Oklahoma Statutes, available to one or more  
4 municipalities or county revenues, derived from a levy imposed  
5 pursuant to the authority of Section 1370 of Title 68 of the  
6 Oklahoma Statutes, based upon the local government entity  
7 participating in a pooled financing.

8           B. Subject to the requirements of Section 1370 of Title 68 of  
9 the Oklahoma Statutes, one or more counties may submit to the  
10 respective voters of each such county the question of whether to  
11 impose a tax not previously imposed, authorized by Section 1370 of  
12 Title 68 of the Oklahoma Statutes, in order to provide revenues to  
13 repay indebtedness incurred by the Authority for the purposes  
14 authorized by the Oklahoma Community Economic Development Pooled  
15 Finance Act. The provisions of this subsection shall be applicable  
16 to any one or more counties participating in a pooled financing,  
17 regardless of whether any other county, subject to voter approval,  
18 will be imposing a tax levy to be used for the purposes of this act  
19 for the first time or whether any one or more of such counties,  
20 subject to voter approval, will be modifying the purposes of an  
21 existing tax levy to allow revenues to be used for the purposes of  
22 this act.

23           C. Subject to the requirements of Section 1370 of Title 68 of  
24 the Oklahoma Statutes, one or more counties may submit to the

1 respective voters of each such county the question of whether to  
2 modify an existing tax levy, previously approved by the voters of  
3 such county, in order to allow the use of some part or all of the  
4 proceeds from the existing tax levy in order to provide revenues to  
5 repay indebtedness incurred by the Authority for the purposes  
6 authorized by this act. The provisions of this subsection shall be  
7 applicable to any one or more counties participating in a pooled  
8 financing, regardless of whether any other county, subject to voter  
9 approval, will be imposing a tax levy to be used for the purposes of  
10 this act for the first time or whether any one or more of such  
11 counties, subject to voter approval, will be modifying the purposes  
12 of an existing tax levy to allow revenues to be used for the  
13 purposes of this act.

14 D. Counties may submit questions authorized by this section  
15 regardless of whether the counties are contiguous or adjacent to one  
16 another.

17 E. A county that submits a question for the imposition of a  
18 dedicated tax levy or the modification of an existing tax levy  
19 pursuant to the provisions of this section shall specify the type of  
20 tax levy and the rate of the levy in the question submitted which  
21 shall be clearly identified by the wording of the ballot.

22 F. A county may impose a different tax levy or the same type of  
23 levy at a different rate than the other counties or a different levy  
24 or at a different rate than a participating municipality or

1 municipalities submitting a pooled financing question to the  
2 respective voters of the participating jurisdictions.

3 G. The duration of the levy shall be identical in all questions  
4 submitted for voter approval and shall not exceed twenty-five (25)  
5 years.

6 H. The ballot for a pooled financing pursuant to the provisions  
7 of this act shall clearly indicate:

8 1. That the revenues from the tax levy are to be used for the  
9 payment of principal, interest and other costs of borrowing  
10 authorized by the provisions of this act;

11 2. The duration of the obligations to be repaid; and

12 3. The projects or assets to be acquired, constructed,  
13 improved, maintained or otherwise used by the county as a result of  
14 the imposition of the levy.

15 I. Revenues derived from a tax levy imposed pursuant to the  
16 provisions of this section shall be paid by the county to the  
17 Community Economic Development Pooled Finance Revolving Fund created  
18 pursuant to Section 15 of this act.

19 J. No tax levy imposed pursuant to the provisions of this  
20 section shall be repealed until such time as the indebtedness is  
21 fully repaid. In no event shall the duration of the levy be  
22 extended beyond the duration approved by the voters of the county.

23

24

1 SECTION 15. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 891.15 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a revolving fund  
5 for the Oklahoma Development Finance Authority to be designated the  
6 "Community Economic Development Pooled Finance Revolving Fund". The  
7 fund shall be a continuing fund, not subject to fiscal year  
8 limitations, and shall consist of all monies received by the  
9 Oklahoma Development Finance Authority from revenues derived from  
10 levies imposed by counties, cities, towns or combinations of such  
11 local governmental entities as provided by this act in addition to  
12 any withholding tax revenues as provided by Section 12 of this act.  
13 All monies accruing to the credit of said fund are hereby  
14 appropriated and may be budgeted and expended by the Oklahoma  
15 Development Finance Authority for the purpose of paying principal,  
16 interest and other costs of borrowing by the Authority as authorized  
17 by this act. Expenditures from said fund shall be made upon  
18 warrants issued by the State Treasurer against claims filed as  
19 prescribed by law with the Director of State Finance for approval  
20 and payment.

21 SECTION 16. AMENDATORY 68 O.S. 2001, Section 2705, is  
22 amended to read as follows:

23 Section 2705. A. Any taxes which may be levied by an  
24 incorporated city or town as authorized by ~~this act~~ the provisions

1 of Section 2701 et seq. of this title shall not become valid until  
2 the ordinance setting the rate of such tax shall have been approved  
3 by a majority vote of the registered voters of such incorporated  
4 city or town voting on such question at a general or special  
5 municipal election ~~and no~~.

6 B. In the case of a levy submitted for voter approval pursuant  
7 to Section 13 of this act, taxes levied by an incorporated city or  
8 town shall not become valid until the ordinance setting the rate of  
9 the levy shall have been approved by a majority vote of the  
10 registered voters of each such incorporated city or town voting on  
11 such question at a special municipal election. Elections conducted  
12 pursuant to questions submitted pursuant to Section 13 of this act  
13 shall be conducted on the same date or in a sequence that provides  
14 that the last vote required for approval by all participating  
15 counties or municipalities occurs not later than thirty (30) days  
16 after the date upon which the first vote occurs.

17 C. No ordinance shall be resubmitted for ratification within  
18 six (6) months following its defeat by the electors.

19 SECTION 17. AMENDATORY 68 O.S. 2001, Section 1370, as  
20 last amended by Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
21 2008, Section 1370), is amended to read as follows:

22 Section 1370. A. Any county of this state may levy a sales tax  
23 of not to exceed two percent (2%) upon the gross proceeds or gross  
24 receipts derived from all sales or services in the county upon which

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

20 B. The Oklahoma Tax Commission shall give notice to all vendors  
21 of a rate change at least sixty (60) days prior to the effective  
22 date of the rate change. Provided, for purchases from printed  
23 catalogs wherein the purchaser computed the tax based upon local tax  
24 rates published in the catalog, the rate change shall not be

1 effective until the first day of a calendar quarter after a minimum  
2 of one hundred twenty (120) days' notice to vendors. Failure to  
3 give notice as required by this section shall delay the effective  
4 date of the rate change to the first day of the next calendar  
5 quarter.

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

20 D. Subject to the provisions of Section ~~3~~ 1357.10 of this ~~act~~  
21 title, all items that are exempt from the state sales tax shall be  
22 exempt from any sales tax levied by a county.

23 E. Any sales tax which may be levied by a county shall be  
24 designated for a particular purpose. Such purposes may include, but

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

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

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

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

20 H. The life of the tax could be limited or unlimited in  
21 duration. The county shall identify the duration of the tax when it  
22 is presented to the voters pursuant to the provisions of subsections  
23 A and C of this section. The maximum duration of a levy imposed  
24 pursuant to Section 14 of this act shall be no longer than allowed

1 pursuant to the Oklahoma Community Economic Development Pooled  
2 Finance Act.

3 I. ~~There~~ Except for the levies imposed pursuant to Section 14  
4 of this act, there are hereby created one or more county sales tax  
5 revolving funds in each county which levies a sales tax under this  
6 section if any or all of the proceeds of such tax are not to be  
7 deposited in the general revenue fund of the county or comply with  
8 the provisions of subsection G of this section. Each such revolving  
9 fund shall be designated for a particular purpose and shall consist  
10 of all monies generated by such sales tax which are designated for  
11 such purpose. Monies in such funds shall only be expended for the  
12 purposes specifically designated as required by this section. A  
13 county sales tax revolving fund shall be a continuing fund not  
14 subject to fiscal year limitations.

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

1 SECTION 18. AMENDATORY 74 O.S. 2001, Section 1004, is  
2 amended to read as follows:

3 Section 1004. A. Any power or powers, privileges or authority  
4 exercised or capable of exercise by a public agency of this state  
5 may be exercised and enjoyed jointly with any other public agency of  
6 this state, and jointly with any public agency of any other state or  
7 of the United States to the extent that laws of such other state or  
8 of the United States permit such joint exercise or enjoyment. Any  
9 agency of the state government when acting jointly with any public  
10 agency may exercise and enjoy all of the powers, privileges and  
11 authority conferred by this act upon a public agency.

12 B. Any two or more public agencies may enter into agreements  
13 with one another for joint or cooperative action pursuant to the  
14 provisions of this act.  
15 Appropriate action by ordinance, resolution or otherwise pursuant to  
16 law of the governing bodies of the participating public agencies  
17 shall be necessary before any such agreement may enter into force.

18 C. Any such agreement shall specify the following:

19 1. Its duration;

20 2. The precise organization, composition and nature of any  
21 separate legal or administrative entity created thereby together  
22 with the powers delegated thereto, provided such entity may be  
23 legally created;

24 3. Its purpose or purposes;

1       4. The manner of financing the joint or cooperative undertaking  
2 and of establishing and maintaining a budget therefor;

3       5. The permissible method or methods to be employed in  
4 accomplishing the partial or complete termination of the agreement  
5 and for disposing of property upon such partial or complete  
6 termination; and

7       6. Any other necessary and proper matters.

8       D. In the event that the agreement does not establish a  
9 separate legal entity to conduct the joint or cooperative  
10 undertaking, the agreement shall, in addition to paragraphs 1, 3, 4,  
11 5 and 6 set forth in subsection C of this section, contain the  
12 following:

13       1. Provisions for an administrator or a joint board responsible  
14 for administering the joint or cooperative undertaking. In the case  
15 of a joint board, public agencies party to the agreement shall be  
16 represented; and

17       2. The manner of acquiring, holding and disposing of real and  
18 personal property used in the joint or cooperative undertaking.

19       E. No agreement made pursuant to this act shall relieve any  
20 public agency of any obligation or responsibility imposed upon it by  
21 law except that, to the extent of actual and timely performance  
22 thereof by a joint board or other legal or administrative entity  
23 created by an agreement made hereunder, the performance may be  
24 offered in satisfaction of the obligation or responsibility.

1 F. Every agreement made hereunder, except those agreements  
2 authorized by Section 601 of Title 69 of the Oklahoma Statutes which  
3 shall be approved by the district attorney, shall, prior to and as a  
4 condition precedent to its entry into force, be submitted to the  
5 Attorney General who shall determine whether the agreement is in  
6 proper form and compatible with the laws of this state including any  
7 agreements entered into pursuant to the provisions of the Oklahoma  
8 Community Economic Development Pooled Finance Act. The Attorney  
9 General shall approve any agreement submitted to the Attorney  
10 General hereunder unless the Attorney General shall find that it  
11 does not meet the conditions set forth herein and shall detail in  
12 writing addressed to the governing bodies of the public agencies  
13 concerned the specific respects in which the proposed agreement  
14 fails to meet the requirements of law. Failure to disapprove an  
15 agreement submitted hereunder within sixty (60) days of its  
16 submission shall constitute approval thereof.

17 G. Financing of joint projects by agreements shall be as  
18 provided by law including any agreements entered into pursuant to  
19 the provisions of the Oklahoma Community Economic Development Pooled  
20 Finance Act.

21 SECTION 19. The provisions of this act are severable and if any  
22 part or provision shall be held void the decision of the court so  
23 holding shall not affect or impair any of the remaining parts or  
24 provisions of this act.

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SECTION 20. This act shall become effective November 1, 2009.

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