ENGROSSED SENATE
BILL NO. 318 By: Mazzei, Gumm, Aldridge, Jolley and Sparks of the Senate

and

Hickman of the House

[ revenue and taxation - modifying sales tax - codification - effective date - emergency ]

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

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

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

1. Tangible personal property, except newspapers and periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water, sewage and refuse.

Provided, the rate of four and one-half percent (4.5%) shall not apply to sales subject to the provisions of paragraph 6 of Section 1357 of this title;

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

a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and

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

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

a. the term "telecommunications services" shall mean the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications services" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications services" do not include:

(1) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information,

(2) installation or maintenance of wiring or equipment on a customer's premises,

(3) tangible personal property,

(4) advertising, including but not limited to directory advertising,

(5) billing and collection services provided to third parties,

(6) Internet access services,

(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(8) ancillary services, or

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

b. the term "interstate" means a "telecommunications service" that originates in one United States state, or a United States territory or possession, and

terminates in a different United States state or a United States territory or possession,

c. the term “intrastate” means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession,

d. the term “ancillary services” means services that are associated with or incidental to the provision of telecommunications services, including but not limited to “detailed telecommunications billing”, “directory assistance”, “vertical service”, and “voice mail services”.

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

(1) if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products may be subject to tax unless the provider can identify by reasonable and verifiable standards such portion for its books and records kept in the regular course of

business for other purposes, including, but not limited to, nontax purposes, and

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

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

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

6. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

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

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

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

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

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

12. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

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

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

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

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

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

18. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer,

the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

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

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

a. the operation of the business,

b. the nature of the business,

c. the turnover of independent contractors,

d. the lack of place of business in which to display a permit or keep records,

e. lack of adequate records,

f. the fact that the persons are minors or transients,

g. the fact that the persons are engaged in service businesses, or

h. any other reasonable reason;

21. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for

the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide

procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection; and

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

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

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

A. In lieu of the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes; the sale of all eligible food and beverages as defined in the Streamlined Sales and Use Tax Agreement, shall be subject to an excise tax as follows:

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

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

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

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

5. For the fiscal year beginning on July 1, 2013, and all subsequent fiscal years, no tax shall be levied.

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

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

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

Section 1370. A. Any county of this state may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were

registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any sales tax approved by the registered voters of a county shall be applicable only when the point of sale is within the territorial limits of such county. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the county unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance or resolution levying the sales tax or changing the rate of sales tax.

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

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

D. Subject to the provisions of Section ~~3~~ 1357.10 of this ~~act~~ title and except as provided in Section 2 of this act, all items that are exempt from the state sales tax shall be exempt from any sales tax levied by a county.

E. Any sales tax which may be levied by a county shall be designated for a particular purpose. Such purposes may include, but are not limited to, projects owned by the state, any agency or instrumentality thereof, the county and/or any political subdivision located in whole or in part within such county, regional development, economic development, common education, general

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

F. 1. Notwithstanding any other provisions of law, any county that has approved a sales tax for the construction, support or operation of a county hospital may continue to collect such tax if such hospital is subsequently sold. Such collection shall only continue if the county remains indebted for the past construction, support or operation of such hospital. The collection may continue

only until the debt is repaid or for the stated term of the sales tax, whichever period is shorter.

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

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

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

I. There are hereby created one or more county sales tax revolving funds in each county which levies a sales tax under this section if any or all of the proceeds of such tax are not to be deposited in the general revenue fund of the county or comply with the provisions of subsection G of this section. Each such revolving fund shall be designated for a particular purpose and shall consist of all monies generated by such sales tax which are designated for

such purpose. Monies in such funds shall only be expended for the purposes specifically designated as required by this section. A county sales tax revolving fund shall be a continuing fund not subject to fiscal year limitations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

this requirement. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until a qualified manufacturing facility has signed an agreement to locate such facility within the county. As used in this paragraph, "qualified manufacturing facility" means a new or expanding facility primarily engaged in manufacturing, production and/or assembly of consumer or other products, whether or not on a factory basis, whose total cost of acquisition and construction exceeds the sum of Fifteen Million Dollars ($15,000,000.00) and which will employ at least one thousand (1,000) new full-time-equivalent employees, as certified by the Employment Security Commission within three (3) years after the completion of the facility;

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

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance an amount not to exceed twenty-five percent (25%) of the total cost related to the acquisition and construction of the qualified manufacturing facility, related machinery and equipment

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

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

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

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

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of development of facilities for lease or conveyance to the government of the United States and any necessary infrastructure changes or improvements directly related to such facilities located within the county. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the

collection of any such sales tax until an agreement to locate such facility within the county is reached;

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

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

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

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

Section 1370.5 A. Notwithstanding the provisions of Section 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in paragraph ~~6~~ 8 of Section 1357 of ~~Title 68 of~~

~~the Oklahoma Statutes~~ this title and Section 2 of this act, subject to the following conditions:

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

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

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

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

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

C. As used in this section, "economic development project" means any project which the board of county commissioners determines

will promote, enhance or improve economic conditions within the county.

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

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

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

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

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

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

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

C. As used in this section:

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

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

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

Section 1370.7 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a transportation authority or regional economic development

authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing transportation or regional economic development projects located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section except that no regional economic development authority created pursuant to the provisions of this subsection shall have any power or authority to exercise or to attempt to exercise any powers of eminent domain. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any transportation authority or regional economic development authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities,

towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

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

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

E. The authority shall identify the specific duration of the tax when it is presented to the voters pursuant to the provisions of this section and shall include specific language in the ballot title

disclosing the duration of the tax. A levy by a transportation authority or a regional economic development authority shall have a maximum duration of thirty (30) years if the proceeds from the tax are pledged to the repayment of indebtedness and a maximum duration of twenty (20) years if the proceeds from the tax are to be used for expenditures other than the repayment of indebtedness.

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

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

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

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

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is

retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

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

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

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

Section 1370.8 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly

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

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

approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

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

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

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

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

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

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

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

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. Notwithstanding any other provisions of law, any county or hospital authority that has approved a sales tax for the support and operation of a county hospital may continue to collect such tax if such hospital is subsequently sold. Such collection shall only continue if the county or hospital authority remains indebted for the support and operation of such hospital and only until the debt is repaid or for the stated term of the tax, whichever period is shorter. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all

expenses incurred by the authority in the planning, financing and constructing of hospitals or related medical facilities, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

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

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

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

1. Taxes shall be uniform upon the same class subjects, and any tax, charge, or fee levied upon or measured by income or receipts

from the sale of products or services shall be uniform upon all classes of taxpayers;

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

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

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

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

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

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

B. A sales tax authorized in subsection A of this section may be levied for limited purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to the voters for approval as provided in Section 2705 of this title. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the city or town unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance levying the sales tax or changing the rate of sales tax. Such ordinance shall describe with specificity the projects or expenditures for which the limited-purpose tax levy would be made. The municipal governing body shall create a limited-purpose fund and deposit therein any revenue generated by any tax levied pursuant to this subsection. Money in the fund shall be accumulated from year to year. The fund shall be placed in an insured interest-bearing account and the interest which accrues on the fund shall be retained in the fund. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the limited-purpose tax fund shall be expended only as accumulated and only for the purposes specifically described in the taxing ordinance as approved by the voters.

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

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

E. If the proceeds of any sales tax levied by a municipality pursuant to subsection B of this section are being used by the municipality for the purpose of retiring indebtedness incurred by the municipality or by a public trust of which the municipality is a beneficiary for the specific purpose for which the sales tax was imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the municipality. The provisions of this subsection shall apply to all sales tax levies imposed by a municipality and being used by the

municipality for the purposes set forth in this subsection prior to or after July 1, 1995.

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

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

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

Passed the Senate the 4th day of March, 2009.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2009.

_____
Presiding Officer of the House of Representatives