

THE STATE SENATE
Thursday, February 12, 2009

Committee Substitute for
Senate Bill No. 318

COMMITTEE SUBSTITUTE FOR 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 and except as
otherwise provided in Section 2 of this act, 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;

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

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

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

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

1 a. the term "telecommunications services" shall mean the
2 electronic transmission, conveyance, or routing of
3 voice, data, audio, video, or any other information or
4 signals to a point, or between or among points. The
5 term "telecommunications services" includes such
6 transmission, conveyance, or routing in which computer
7 processing applications are used to act on the form,
8 code or protocol of the content for purposes of
9 transmission, conveyance or routing without regard to
10 whether such service is referred to as voice-over
11 Internet protocol services or is classified by the
12 Federal Communications Commission as enhanced or value
13 added. "Telecommunications services" do not include:
14 (1) data processing and information services that
15 allow data to be generated, acquired, stored,
16 processed, or retrieved and delivered by an
17 electronic transmission to a purchaser where such
18 purchaser's primary purpose for the underlying
19 transaction is the processed data or information,
20 (2) installation or maintenance of wiring or
21 equipment on a customer's premises,
22 (3) tangible personal property,

- 1 (4) advertising, including but not limited to
2 directory advertising,
3 (5) billing and collection services provided to third
4 parties,
5 (6) Internet access services,
6 (7) radio and television audio and video programming
7 services, regardless of the medium, including the
8 furnishing of transmission, conveyance and
9 routing of such services by the programming
10 service provider. Radio and television audio and
11 video programming services shall include, but not
12 be limited to, cable service as defined in 47
13 U.S.C. 522(6) and audio and video programming
14 services delivered by commercial mobile radio
15 service providers, as defined in 47 C.F.R. 20.3;
16 (8) ancillary services, or
17 (9) digital products delivered electronically,
18 including but not limited to, software, music,
19 video, reading materials or ring tones,
20 b. the term "interstate" means a "telecommunications
21 service" that originates in one United States state,
22 or a United States territory or possession, and

1 terminates in a different United States state or a
2 United States territory or possession,
3 c. the term "intrastate" means a telecommunications
4 service that originates in one United States state or
5 a United States territory or possession, and
6 terminates in the same United States state or a United
7 States territory or possession,
8 d. the term "ancillary services" means services that are
9 associated with or incidental to the provision of
10 telecommunications services, including but not limited
11 to "detailed telecommunications billing", "directory
12 assistance", "vertical service", and "voice mail
13 services".
14 e. in the case of a bundled transaction that includes
15 telecommunication service, ancillary service, internet
16 access or audio or video programming service:
17 (1) if the price is attributable to products that are
18 taxable and products that are nontaxable, the
19 portion of the price attributable to the
20 nontaxable products may be subject to tax unless
21 the provider can identify by reasonable and
22 verifiable standards such portion for its books
23 and records kept in the regular course of

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

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

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

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

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

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

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

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

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

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

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

20 13. Tickets for admission to or voluntary contributions made to
21 places of amusement, sports, entertainment, exhibition, display, or
22 other recreational events or activities, including free or

1 complimentary admissions which have a value equivalent to the charge
2 that would have otherwise been made;

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

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

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

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

16 18. The gross receipts or gross proceeds from the rental or
17 lease of tangible personal property, including rental or lease of
18 personal property when the rental or lease agreement requires the
19 vendor to launder, clean, repair, or otherwise service the rented or
20 leased property on a regular basis, without any deduction for the
21 cost of the service rendered. If the rental or lease charge is
22 based on the retail value of the property at the time of making the
23 rental or lease agreement and the expected life of the property, and

1 the rental or lease charge is separately stated from the service
2 cost in the statement, bill, or invoice delivered to the consumer,
3 the cost of services rendered shall be deducted from the gross
4 receipts or gross proceeds;

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

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

- 15 a. the operation of the business,
- 16 b. the nature of the business,
- 17 c. the turnover of independent contractors,
- 18 d. the lack of place of business in which to display a
19 permit or keep records,
- 20 e. lack of adequate records,
- 21 f. the fact that the persons are minors or transients,
- 22 g. the fact that the persons are engaged in service
23 businesses, or

1 h. any other reasonable reason;

2 21. Any taxable services and tangible personal property

3 including materials, supplies, and equipment sold to contractors for

4 the purpose of developing and improving real estate even though said

5 real estate is intended for resale as real property, hereby declared

6 to be sales to consumers or users, however, taxable materials,

7 supplies and equipment sold to contractors as provided by this

8 subsection which are purchased as a result of and subsequent to the

9 date of a contract entered into either prior to the effective date

10 of any law increasing the rate of sales tax imposed by this article,

11 or entered into prior to the effective date of an ordinance or other

12 measure increasing the sales tax levy of a political subdivision

13 shall be subject to the rate of sales tax applicable, as of the date

14 such contract was entered into, to sales of such materials, supplies

15 and equipment if such purchases are required in order to complete

16 the contract. Such rate shall be applicable to purchases made

17 pursuant to the contract or any change order under the contract

18 until the contract or any change order has been completed, accepted

19 and the contractor has been discharged from any further obligation

20 under the contract or change order or until two (2) years from the

21 date on which the contract was entered into whichever occurs first.

22 The increased sales tax rate shall be applicable to all such

23 purchases at the time of sale and the contractor shall file a claim

1 for refund before the expiration of three (3) years after the date
2 of contract completion or five (5) years after the contract was
3 entered into, whichever occurs earlier. However, the Oklahoma Tax
4 Commission shall prescribe rules and regulations and shall provide
5 procedures for the refund to a contractor of sales taxes collected
6 on purchases eligible for the lower sales tax rate authorized by
7 this subsection; and

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

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

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

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

- 1 1. For the fiscal year beginning on July 1, 2009, a tax at the
2 rate of three and six-tenths percent (3.6%);
- 3 2. For the fiscal year beginning on July 1, 2010, a tax at the
4 rate of two and seven-tenths percent (2.7%);
- 5 3. For the fiscal year beginning on July 1, 2011, a tax at the
6 rate of one and eight-tenths percent (1.8%);
- 7 4. For the fiscal year beginning on July 1, 2012, a tax at the
8 rate of nine-tenths percent (.9%); and
- 9 5. For the fiscal year beginning on July 1, 2013, no tax shall
10 be levied.

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

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

19 SECTION 3. 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

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

21 B. The Oklahoma Tax Commission shall give notice to all vendors
22 of a rate change at least sixty (60) days prior to the effective
23 date of the rate change. Provided, for purchases from printed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 certified by the Employment Security Commission upon completion of
2 the facility;

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

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

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

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

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

1 Section 1357 of this title and Section 2 of this act, subject to the
2 following conditions:

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

1 least one thousand (1,000) new full-time-equivalent employees, as
2 certified by the Employment Security Commission within three (3)
3 years after the completion of the facility;

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

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

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

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

20 Section 1370.4 Notwithstanding the provisions of Section 1370
21 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of this
22 state with a population of more than three hundred thousand
23 (300,000) according to the latest Federal Decennial Census may levy

1 a sales tax of not to exceed one percent (1%) upon the gross
2 proceeds or gross receipts derived from all sales or services in the
3 county upon which a consumer's sales tax is levied by the state,
4 except as provided in ~~subsection (F)~~ paragraph 8 of Section 1357 of
5 ~~Title 68 of the Oklahoma Statutes~~ this title and Section 2 of this
6 act, subject to the following conditions:

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

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

20 3. The monies collected pursuant to the provisions of this
21 section shall only be expended by the board of county commissioners
22 to finance the construction of the facility and any necessary

1 infrastructure changes or improvements directly related to such
2 facility; and

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

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

7 Section 1370.5 A. Notwithstanding the provisions of Section
8 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of
9 this state with a population of more than three hundred thousand
10 (300,000) according to the latest Federal Decennial Census may levy
11 a sales tax of not to exceed one percent (1%) upon the gross
12 proceeds or gross receipts derived from all sales or services in the
13 county upon which a consumer's sales tax is levied by the state,
14 except as provided in paragraph ~~6~~ 8 of Section 1357 of ~~Title 68 of~~
15 ~~the Oklahoma Statutes~~ this title and Section 2 of this act, subject
16 to the following conditions:

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

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

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

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

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

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

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

20 Section 1370.6 A. Notwithstanding the provisions of Section
21 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of
22 this state with a population of more than three hundred thousand
23 (300,000) according to the latest Federal Decennial Census may levy

1 a sales tax of not to exceed one percent (1%) upon the gross
2 proceeds or gross receipts derived from all sales or services in the
3 county upon which a consumer's sales tax is levied by the state,
4 except as provided in paragraph ~~6~~ 8 of Section 1357 of ~~Title 68 of~~
5 ~~the Oklahoma Statutes~~ this title and Section 2 of this act, subject
6 to the following conditions:

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

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

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

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

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

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

3 C. As used in this section:

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

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

13 SECTION 10. AMENDATORY 68 O.S. 2001, Section 1370.7, as
14 last amended by Section 1, Chapter 308, O.S.L. 2006 (68 O.S. Supp.
15 2008, Section 1370.7), is amended to read as follows:

16 Section 1370.7 A. Any combination of cities, towns and
17 counties, by resolution of their governing boards, may jointly
18 create a transportation authority or regional economic development
19 authority pursuant to the provisions of Section 176 of Title 60 of
20 the Oklahoma Statutes for the purpose of planning, financing and
21 constructing transportation or regional economic development
22 projects located within the boundaries of such cities, towns or
23 counties. An authority created pursuant to the provisions of this

1 subsection shall have the powers granted pursuant to the provisions
2 of Section 176 of Title 60 of the Oklahoma Statutes in addition to
3 the powers granted pursuant to the provisions of this section except
4 that no regional economic development authority created pursuant to
5 the provisions of this subsection shall have any power or authority
6 to exercise or to attempt to exercise any powers of eminent domain.
7 The combination of cities, towns and counties creating the authority
8 shall be designated the beneficiary of the authority. The
9 boundaries of the authority shall be coterminous with the boundaries
10 of the cities, towns or counties creating the authority.

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

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

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

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

18 E. The authority shall identify the specific duration of the
19 tax when it is presented to the voters pursuant to the provisions of
20 this section and shall include specific language in the ballot title
21 disclosing the duration of the tax. A levy by a transportation
22 authority or a regional economic development authority shall have a
23 maximum duration of thirty (30) years if the proceeds from the tax

1 are pledged to the repayment of indebtedness and a maximum duration
2 of twenty (20) years if the proceeds from the tax are to be used for
3 expenditures other than the repayment of indebtedness.

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

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

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

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

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

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

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

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

21 Section 1370.8 A. Any combination of cities, towns and
22 counties, by resolution of their governing boards, may jointly
23 create a hospital authority pursuant to the provisions of Section

1 176 of Title 60 of the Oklahoma Statutes for the purpose of
2 planning, financing and constructing hospitals or related medical
3 facilities located within the boundaries of such cities, towns or
4 counties. An authority created pursuant to the provisions of this
5 subsection shall have the powers granted pursuant to the provisions
6 of Section 176 of Title 60 of the Oklahoma Statutes in addition to
7 the powers granted pursuant to the provisions of this section. The
8 combination of cities, towns and counties creating the authority
9 shall be designated the beneficiary of the authority. The
10 boundaries of the authority shall be coterminous with the boundaries
11 of the cities, towns or counties creating the authority.

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

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

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

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

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

21 F. An authority created pursuant to the provisions of
22 subsection A of this section may utilize the provisions of the Local

1 Development Act as it relates to the financing of such hospitals or
2 related medical facilities.

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

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

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

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

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

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

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

18 SECTION 12. AMENDATORY 68 O.S. 2001, Section 2701, as
19 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.
20 2008, Section 2701), is amended to read as follows:

21 Section 2701. A. Any incorporated city or town in this state
22 is hereby authorized to assess, levy, and collect taxes for general
23 and special purposes of municipal government as the Legislature may

1 levy and collect for purposes of state government, subject to the
2 provisions of subsection F of this section and except as provided in
3 Section 2 of this act, except ad valorem property taxes. Provided:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-3-09 - DO PASS,
20 As Amended and Coauthored.