An Act

ENROLLED HOUSE
BILL NO. 1400

By: Murphey, Ownbey, Faught, Ritze and Strohm of the House

and

Sykes of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 1370, 1370.1, 1370.2, 1370.2A, 1370.4, 1370.5, 1370.6 and 1370.8, which relate to sales tax; limiting subjects per levy; defining term; conforming provisions; providing for codification; and providing an effective date.

SUBJECT: Sales tax

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1354.36 of Title 68, unless there is created a duplication in numbering, reads as follows:

After January 1, 2016, every sales tax levy submitted to county voters for approval shall embrace but one subject, which shall be clearly expressed on the ballot. For purposes of this section, "one subject" shall mean a ballot with only one sales tax levy for a specified purpose but may include multiple projects for that purpose.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 1370, is amended to read as follows:

Section 1370. A. ~~Any~~ <u>In accordance with the provisions of Section 1 of this act, any</u> 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 1357.10 of this title, 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, including any authorized purpose pursuant to the Oklahoma Community Economic Development Pooled Finance Act. 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 and except as required by the Oklahoma Community Economic Development Pooled Finance Act, 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. The maximum duration of a levy imposed pursuant to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes shall be no longer than allowed pursuant to the Oklahoma Community Economic Development Pooled Finance Act.

I. Except for the levies imposed pursuant to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes, 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.

J. In the case of a levy submitted for voter approval pursuant to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes, taxes levied by a county shall not become valid until the ordinance or resolution setting the rate of the levy shall have been approved by a majority vote of the registered voters of each such county voting on such question at a special election. Elections conducted pursuant to questions submitted pursuant to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes shall be conducted on the same date or in a sequence that provides that the last vote required for approval by all participating counties or municipalities occurs not later than thirty (30) days after the date upon which the first vote occurs.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 1370.1, is amended to read as follows:

Section 1370.1 Notwithstanding the provisions of Section 1370 of this title and in accordance with the provisions of Section 1 of this act, 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 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 4. AMENDATORY 68 O.S. 2011, Section 1370.2, is amended to read as follows:

Section 1370.2 Notwithstanding the provisions of Section 1370 of this title and in accordance with the provisions of Section 1 of this act, 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, 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 5. AMENDATORY 68 O.S. 2011, Section 1370.2A, is amended to read as follows:

Section 1370.2A Notwithstanding the provisions of Section 1370 of this title <u>and in accordance with the provisions of Section 1 of this act</u>, 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 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 6. AMENDATORY 68 O.S. 2011, 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 and in accordance with the provisions of Section 1 of this act, 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, 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 7. AMENDATORY 68 O.S. 2011, 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 and in accordance with the provisions of Section 1 of this act, 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, 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 8. AMENDATORY 68 O.S. 2011, 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 and in accordance with Section 1 of this act, 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, 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 9. AMENDATORY 68 O.S. 2011, Section 1370.8, is amended to read as follows:

Section 1370.8 A. ~~Any~~ In accordance with the provisions of Section 1 of this act, 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.

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 10. This act shall become effective November 1, 2015.

Passed the House of Representatives the 29th day of April, 2015.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2015.

_____
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____