

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SUBCOMMITTEE RECOMMENDATION
FOR

HOUSE BILL NO. 1039

By: Rosecrants

SUBCOMMITTEE RECOMMENDATION

An Act relating to revenue and taxation; amending 68 O.S. 2021, Sections 1357.10, 1377 and 2701, which relate to tax exemptions for certain sales; exempting school supplies; modifying maximum per-item allowance; defining term; clarifying citations; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1357.10, is amended to read as follows:

Section 1357.10 A. The sale of an article of clothing or footwear designed to be worn on or about the human body or any school supplies shall be exempt from the tax imposed by Section 1354 of ~~Title 68 of the Oklahoma Statutes~~ this title if:

1. The sales price of the article of clothing or footwear is less than ~~One Hundred Dollars (\$100.00)~~ Seventy-five Dollars

1 (\$75.00) and the price of the school supply item is less than Fifty
2 Dollars (\$50.00); and

3 2. The sale takes place during a period beginning at 12:01 a.m.
4 on the first Friday in August and ending at 12 midnight on the
5 following Sunday, covering a period of three (3) days.

6 B. Subsection A of this section shall not apply to:

7 1. Any special clothing or footwear that is primarily designed
8 for athletic activity or protective use and that is not normally
9 worn except when used for athletic activity or protective use for
10 which it is designed;

11 2. Accessories, including jewelry, handbags, luggage,
12 umbrellas, wallets, watches, and similar items carried on or about
13 the human body, without regard to whether worn on the body in a
14 manner characteristic of clothing; and

15 3. The rental of clothing or footwear.

16 C. The Oklahoma Tax Commission shall promulgate any necessary
17 rules to implement the provisions of this section.

18 D. For purposes of subsection A of this section, school
19 supplies shall include binders, calculators, cellophane tape,
20 colored pencils, compasses, notebooks, construction paper, crayons,
21 erasers, folders, glue sticks, liquid glue, highlighters, legal
22 pads, lunchboxes, markers, notebook filler paper, paste, pencils,
23 including mechanical pencils and pencil refills, pens, including
24 felt pens, ballpoint pens, fountain pens, and pen refills, poster

1 board, poster paper, protractors, rulers, scissors, staplers,
2 staples, paints, including acrylic, tempera, watercolors, and oil
3 paints, paintbrushes for artwork, sketch and drawing pads, reference
4 maps and guides, all required textbooks on an official school book
5 list with a sales price of more than Thirty Dollars (\$30.00) and
6 less than Fifty Dollars (\$50.00).

7 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1377, is
8 amended to read as follows:

9 Section 1377. The sales tax imposed by any county or authority
10 authorized by law to levy a sales tax shall not be imposed upon the
11 sale of an article of clothing or footwear designed to be worn on or
12 about the human body or any school supplies in accordance with and
13 to the extent set forth in Section ~~3~~ 1357.10 of this ~~act~~ title.

14 SECTION 3. AMENDATORY 68 O.S. 2021, Section 2701, is
15 amended to read as follows:

16 Section 2701. A. Any incorporated city or town in this state
17 is hereby authorized to assess, levy, and collect taxes for general
18 and special purposes of municipal government as the Legislature may
19 levy and collect for purposes of state government, subject to the
20 provisions of subsection F of this section, except ad valorem
21 property taxes. Provided:

22 1. Taxes shall be uniform upon the same class subjects, and any
23 tax, charge, or fee levied upon or measured by income or receipts
24

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

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

6 3. The provisions of this section shall not be construed to
7 authorize imposition of any tax upon persons, firms, or corporations
8 exempted from other taxation under the provisions of Sections 348.1,
9 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
10 payment of taxes imposed under such sections;

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

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

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

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

24

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

24

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

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

14 E. If the proceeds of any sales tax levied by a municipality
15 pursuant to subsection B of this section are being used by the
16 municipality for the purpose of retiring indebtedness incurred by
17 the municipality or by a public trust of which the municipality is a
18 beneficiary for the specific purpose for which the sales tax was
19 imposed, the sales tax shall not be repealed until such time as the
20 indebtedness is retired. However, in no event shall the life of the
21 tax be extended beyond the duration approved by the voters of the
22 municipality. The provisions of this subsection shall apply to all
23 sales tax levies imposed by a municipality and being used by the
24

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

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

8 G. Any municipality that levies a dedicated tax pursuant to a
9 vote of the people for the purpose of funding public safety or any
10 other governmental purpose shall not redirect all or a portion of
11 the dedicated tax revenue to another purpose without a vote of the
12 people authorizing such action.

13 SECTION 4. The act shall become effective July 1, 2023.

14 SECTION 5. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18
19
20
21
22
23
24

59-1-7570 MAH 02/20/23