

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1039

By: Rosecrants

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2021, Sections 1357.10, 1377 and 2701, which  
9 relate to tax exemptions for certain sales; exempting  
10 school supplies; modifying maximum per-item  
11 allowance; defining term; directing State Board of  
12 Education to promulgate list; clarifying citations;  
13 providing an effective date; and declaring an  
14 emergency.

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

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

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

22 1. The sales price of the article of clothing or footwear is  
23 less than ~~One Hundred Dollars (\$100.00)~~ Seventy-five Dollars  
24 (\$75.00) and the price of the school supply item is less than Fifty  
Dollars (\$50.00); and

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

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

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

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

13        3. The rental of clothing or footwear.

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

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

1 paints, paintbrushes for artwork, sketch and drawing pads, reference  
2 maps and guides, all required textbooks on an official school book  
3 list with a sales price of more than Thirty Dollars (\$30.00) and  
4 less than Fifty Dollars (\$50.00) and any additional items deemed  
5 school supplies by the State Board of Education. Each year, the  
6 State Board of Education shall promulgate an official list of school  
7 supplies, which will additionally be treated as tax-exempt under  
8 this section.

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

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

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

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

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

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

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

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

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

20        6. The governing body of any city or town shall be prohibited  
21 from proposing taxing ordinances more often than three times in any  
22 calendar year, or twice in any six-month period; and  
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1       7. Any revenues derived from a tax authorized by this  
2 subsection not dedicated to a limited purpose shall be deposited in  
3 the municipal general fund.

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

1 and only for the purposes specifically described in the taxing  
2 ordinance as approved by the voters.

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

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

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

1 sales tax levies imposed by a municipality and being used by the  
2 municipality for the purposes set forth in this subsection prior to  
3 or after July 1, 1995.

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

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

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

15 SECTION 5. It being immediately necessary for the preservation  
16 of the public peace, health or 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.

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