

1 ENGROSSED HOUSE  
2 BILL NO. 1297

By: Ownbey, Inman, Terrill and  
Shumate of the House

3 and

4 Crutchfield of the Senate

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8 ( revenue and taxation - amending 68 O.S., Sections  
9 1357.10, 1370, 1377 and 2701 - sales tax -  
10 effective date -

11 emergency )

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

15 SECTION 1. AMENDATORY Section 3, Chapter 136, O.S.L.  
16 2007 (68 O.S. Supp. 2008, Section 1357.10), is amended to read as  
17 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 and the sale  
20 of school supplies shall be exempt from the tax imposed by Section  
21 1354 of ~~Title 68 of the Oklahoma Statutes~~ this title if:

22 1. The sales price of the article is less than One Hundred  
23 Dollars (\$100.00); and

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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. As used in this section, "school supplies" means pens,  
15 pencils, three-ring binders, notebook paper, spiral notebooks,  
16 pocket folders, rulers, protractors, compasses, map pencils,  
17 crayons, markers, glue, index cards or any item included on an  
18 official supply list provided to students by a school.

19           D. The Oklahoma Tax Commission shall promulgate any necessary  
20 rules to implement the provisions of this section.

21           SECTION 2.           AMENDATORY           68 O.S. 2001, Section 1370, as  
22 last amended by Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
23 2008, Section 1370), is amended to read as follows:

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1 Section 1370. A. Any county of this state may levy a sales tax  
2 of not to exceed two percent (2%) upon the gross proceeds or gross  
3 receipts derived from all sales or services in the county upon which  
4 a consumer's sales tax is levied by this state. Before a sales tax  
5 may be levied by the county, the imposition of the tax shall first  
6 be approved by a majority of the registered voters of the county  
7 voting thereon at a special election called by the board of county  
8 commissioners or by initiative petition signed by not less than five  
9 percent (5%) of the registered voters of the county who were  
10 registered at the time of the last general election. However, if a  
11 majority of the registered voters of a county voting fail to approve  
12 such a tax, the board of county commissioners shall not call another  
13 special election for such purpose for six (6) months. Any sales tax  
14 approved by the registered voters of a county shall be applicable  
15 only when the point of sale is within the territorial limits of such  
16 county. Any sales tax levied or any change in the rate of a sales  
17 tax levied pursuant to the provisions of this section shall become  
18 effective on the first day of the calendar quarter following  
19 approval by the voters of the county unless another effective date,  
20 which shall also be on the first day of a calendar quarter, is  
21 specified in the ordinance or resolution levying the sales tax or  
22 changing the rate of sales tax.

23 B. The Oklahoma Tax Commission shall give notice to all vendors  
24 of a rate change at least sixty (60) days prior to the effective

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

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

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

4 E. Any sales tax which may be levied by a county shall be  
5 designated for a particular purpose. Such purposes may include, but  
6 are not limited to, projects owned by the state, any agency or  
7 instrumentality thereof, the county and/or any political subdivision  
8 located in whole or in part within such county, regional  
9 development, economic development, common education, general  
10 operations, capital improvements, county roads, weather modification  
11 or any other purpose deemed, by a majority vote of the county  
12 commissioners or as stated by initiative petition, to be necessary  
13 to promote safety, security and the general well-being of the  
14 people. The county shall identify the purpose of the sales tax when  
15 it is presented to the voters pursuant to the provisions of  
16 subsection A of this section. Except as otherwise provided in this  
17 section, the proceeds of any sales tax levied by a county shall be  
18 deposited in the general revenue or sales tax revolving fund of the  
19 county and shall be used only for the purpose for which such sales  
20 tax was designated. If the proceeds of any sales tax levied by a  
21 county pursuant to this section are pledged for the purpose of  
22 retiring indebtedness incurred for the specific purpose for which  
23 the sales tax is imposed, the sales tax shall not be repealed until  
24 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  
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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 3. AMENDATORY Section 5, Chapter 136, O.S.L.  
15 2007 (68 O.S. Supp. 2008, Section 1377), is amended to read as  
16 follows:

17 Section 1377. The sales tax imposed by any county or authority  
18 authorized by law to levy a sales tax shall not be imposed upon the  
19 sale of ~~an article of clothing or footwear designed to be worn on or~~  
20 ~~about the human body~~ any items included in Section 1357.10 of this  
21 title, in accordance with and to the extent set forth in Section ~~3~~  
22 1357.10 of this ~~act~~ title.

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1 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2701, as  
2 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
3 2008, Section 2701), is amended to read as follows:

4 Section 2701. A. Any incorporated city or town in this state  
5 is hereby authorized to assess, levy, and collect taxes for general  
6 and special purposes of municipal government as the Legislature may  
7 levy and collect for purposes of state government, subject to the  
8 provisions of subsection F of this section, except ad valorem  
9 property taxes. Provided:

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

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

17 3. The provisions of this section shall not be construed to  
18 authorize imposition of any tax upon persons, firms, or corporations  
19 exempted from other taxation under the provisions of Sections 348.1,  
20 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
21 payment of taxes imposed under such sections;

22 4. Cooperatives and communications companies are hereby  
23 authorized to pass on to their subscribers in the incorporated city  
24 or town involved, the amount of any special municipal fee, charge or

1 tax hereafter assessed or levied on or collected from such  
2 cooperatives or communications companies;

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

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

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

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

1 this subsection. Money in the fund shall be accumulated from year  
2 to year. The fund shall be placed in an insured interest-bearing  
3 account and the interest which accrues on the fund shall be retained  
4 in the fund. The fund shall be nonfiscal and shall not be  
5 considered in computing any levy when the municipality makes its  
6 estimate to the excise board for needed appropriations. Money in  
7 the limited-purpose tax fund shall be expended only as accumulated  
8 and only for the purposes specifically described in the taxing  
9 ordinance as approved by the voters.

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

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

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

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

19 SECTION 5. This act shall become effective July 1, 2009.

20 SECTION 6. It being immediately necessary for the preservation  
21 of the public peace, health and safety, an emergency is hereby  
22 declared to exist, by reason whereof this act shall take effect and  
23 be in full force from and after its passage and approval.

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