

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	HB 3349
Version:	FA2
Request Number:	11146
Author:	Mr. Speaker
Date:	3/22/2022
Impact:	Tax Commission:

Sales Tax Revenue Decrease
FY-23: (\$287,182,249)

Administrative Cost Estimate
\$62,500

Implementation Time: Minimum of Two Months

Research Analysis

The floor substitute for HB 3349 provides a temporary exemption from the state sales tax levy for sales of *food and food ingredients* sold for consumption off-premise, effective July 1, 2022 through July 30, 2024.

The exemption is applicable only to the 4.5 percent state sales tax and does not supersede or affect any local sales taxes levied on food and food ingredients by cities, counties and other local taxing jurisdictions. Any municipal ordinance, county resolution, or similar measure imposing a sales tax on food and food ingredients will continue to be applicable.

The measure defines *food and food ingredients* as, substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Alcoholic beverages, bottled water, candy, dietary supplements, marijuana and marijuana-infused products, prepared food, soft drinks and tobacco are excluded from the definition.

Prepared By: Emily McPherson

Fiscal Analysis

Analysis provided by the Tax Commission:

The measure proposes a 0% state tax rate on sales of *food and food ingredients* beginning July 1, 2022, and ending June 30, 2024. It also provides that the state sales tax rate of 0% levied upon sales of food and food ingredients shall not apply to any local taxing jurisdictions. Further, it defines terms such as *food and food ingredients*¹, *bottled water*², *candy*³, *alcoholic beverages*⁴, *dietary supplements*⁵, *prepared food*⁶, *soft drinks*⁷ and *tobacco*⁸.

The U.S. Census Bureau reports 1,480,061 households in Oklahoma with an average household consisting of 2.58 persons. Based on U.S. Bureau of Labor Statistics the amount of estimated monthly food expenditures for home consumption per household was \$412 for FY 20. The inflation rate for home consumption food increased 0.9% for FY 21 resulting in an estimated \$416 in monthly food expenditures. Multiplying the average food expenditure by 1,480,061 households, results in \$615,705,376 in monthly expenditures for food. Multiplying \$615,705,376 by 12 (months), yields a yearly average expenditure for home food consumption in the amount of \$7,388,464,512. An adjustment for FY 21 food stamp and WIC sales which are currently exempt, in the combined amount of \$1,390,495,640 results in a total at home food expenditure amount of \$5,997,968,872 for FY 22. Application of the current 4.5% state sales tax rate results in an estimated \$269,908,599 in state sales tax revenues. Application of an inflation rate adjustment of 6.4% will result in estimated decrease of \$287,182,749 in state sales tax revenues for FY 23.

¹ "Food and food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients shall not include alcoholic beverages, bottled water, candy, dietary supplements, marijuana, usable marijuana or marijuana-infused products, prepared food, soft drinks or tobacco.

² "Bottled water" means water that is placed in a safety sealed container or package for human consumption including water that is delivered to the buyer in a reusable container that is not sold with the water. Bottled water shall be calorie free and shall not contain sweeteners or other additives, except that it may contain antimicrobial agents, fluoride, carbonation, vitamins, minerals, and electrolytes, oxygen, preservatives, and only those flavors, extracts, or essences derived from spice or fruit.

³ "Candy" shall mean a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour or require refrigeration.

⁴ "Alcoholic beverages" shall mean beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume.

⁵ "Dietary supplement" shall mean any product, other than tobacco, intended to supplement the diet that contains, vitamins, minerals, herbs or other botanicals, amino acids, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of any ingredient described in the foregoing divisions and is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet and is required to be labeled as a dietary supplement, identifiable by the label as required pursuant to 21 CFR, Section 101.36.

⁶ "Prepared food" means food sold in a heated state or that is heated by the seller, two or more food ingredients mixed or combined by the seller for sale as a single item, or food sold with eating utensils provided by the seller including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

⁷ "Soft drinks" shall mean any nonalcoholic beverages, that contain natural or artificial sweeteners, but does not include beverages that contain milk or milk products, soy, rice, oat, or similar milk substitutes, or greater than fifty (50%) of vegetable or fruit juice by volume.

⁸ "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

Prepared By: Mark Tygret

Other Considerations

Administrative Cost:

The measure will result in an increase of \$62,500 in administrative costs and a minimum of 2 months to implement.