

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
FIRST REGULAR SESSION, FIFTY-NINTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: January 31, 2023

BILL NUMBER: HB 1955 **STATUS AND DATE OF BILL:** Introduced 01/18/2023

AUTHORS: House: McCall Senate: n/a

TAX TYPE (S): Sales Tax **SUBJECT:** Tax Rate/Exemption

PROPOSAL: New and Amendatory

The measure proposes a 0% state tax rate on sales of *food and food ingredients* beginning July 1, 2023. 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 and requires that any county or municipality that submits an increase in sales tax or an excise tax to its voters shall provide that the increased rate does not apply to "food and food ingredients". Further, it defines terms such as *food and food ingredients, candy, alcoholic beverages, dietary supplements, prepared food, and soft drinks.*

EFFECTIVE DATE: Emergency - July 1, 2023

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 24: \$370,330,000 decrease in state sales tax revenues.

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 24: \$93,750 increase in OTC administrative costs

<u>Feb. 5, 2023</u>	<u>Rick Miller</u>	<u>msm</u>
DATE	DIVISION DIRECTOR	
<u>2/6/2023</u>	<u>Huan Gong</u>	
DATE	HUAN GONG, ECONOMIST	
<u>3/1/2023</u>	<u>Joseph P Gappa</u>	
DATE	FOR THE COMMISSION	

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT HB 1955 [Introduced] Prepared 01/31/2023

The measure proposes a 0% state tax rate on sales of food and food ingredients beginning July 1, 2023. 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 and requires that any county or municipality that submits an increase in sales tax or an excise tax to its voters shall provide that the increased rate does not apply to "food and food ingredients". Further, it defines terms such as *food and food ingredients*¹, *candy*², *alcoholic beverages*³, *dietary supplements*⁴, *prepared food*⁵, and *soft drinks*.⁶

The U.S. Census Bureau reports 1,503,868 households in Oklahoma with an average household consisting of 2.57 persons. Based on U.S. Bureau of Labor Statistics the amount of estimated monthly food expenditures for home consumption per household was \$438 for FY 21. The inflation rate for home consumption food increased 12.2% for FY 22 resulting in an estimated \$492 in monthly food expenditures. Multiplying the average food expenditure by 1,503,868 households, results in \$739,903,056 in monthly expenditures for food. Multiplying \$739,903,056 by 12 (months), yields a yearly average expenditure for home food consumption in the amount of \$8,878,836,672. An adjustment for exempt FY 22 food stamp and FY 21 WIC sales in the combined amount of \$1,862,349,735 results in a total at home food expenditure amount of \$7,016,486,937 for FY 22. Application of the current 4.5% state sales tax rate results in an estimated \$315,741,912 in state sales tax revenues. Application of an inflation rate adjustment of 8.3% will result in estimated decrease of \$341,948,491 in state sales tax revenues for FY 23 and an estimated decrease of \$370,330,216 for FY 24, calculated with an additional 8.3% rate of inflation and assuming an effective date of July 1, 2023.

Administrative Costs and Concerns

The measure will result in an increase of \$93,750 in administrative costs and a minimum of 3 months to implement. Consequently, the July 1, 2023 effective date does not afford vendors or the Tax Commission sufficient time in which to implement the proposed changes outlined in the measure.

Oklahoma is a member of and in full compliance with the Streamlined Sales and Use Tax Agreement (SSUTA). Pursuant to Oklahoma's membership in the SSUTA, certain vendors voluntarily collect and remit state and local [city/county] sales and

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 include bottled water, candy, and soft drinks but shall not include alcoholic beverages, dietary supplements, marijuana, usable marijuana or marijuana-infused products, prepared food, or tobacco.

² "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.

³ "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.

⁴ "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.

⁵ "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.

⁶ "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.

use tax to this state. A condition of membership in the SSUTA is that local jurisdictions that levy a sales tax shall not have more than one local sales tax rate per local jurisdiction.⁷ This measure effectively limits application of local sales tax levies enacted on or after July 1, 2023 until June 30, 2025, to taxable transactions other than sales of food and food ingredients. Therefore, local increases in sales tax approved on July 1, 2023 or any time until June 30, 2025 could effectively violate this condition. If this proposal passes as written, Oklahoma could be found to be out of compliance with the SSUTA; face expulsion therefrom and the annual sales and use tax revenues remitted by the above-referenced vendors would cease resulting in a decrease in state and local sales and use tax revenues.

⁷ Section 308(B) of the Streamlined Sales and Use Tax Agreement [Adopted November 12, 2002 and amended through December 21, 2021].