

MEMO

Tax Policy and Research Division



OKLAHOMA
Tax Commission

DATE: FEBRUARY 26, 2024

TO: FISCAL STAFF

FROM: MARIE SCHUBLE, DIRECTOR OF TAX POLICY & RESEARCH *MS*

SUBJECT: PROPOSED COMMITTEE SUBSTITUTE FOR SB 1283 (DRAFT REQ. NO. 3595)

Proposal: SB 1283 PCS (Req. No, 3595) proposes to amend 68 O.S. Section 1352 by adding definitions of "bottled water" and "food sold with eating utensils provided by the seller". In addition, the measure provides that several food items do not fall under the category of prepared food, including food sold in an unheated state by weight or volume as a single item, bakery items, and food that ordinarily requires additional cooking or preparation by the consumer prior to consumption, beyond just reheating.

Impact: The measure will have no impact on state sales tax revenues due to the passage and approval of HB 1955. (currently pending signature by the Governor). However, Oklahoma will be out of compliance with the Streamlined Sales and Use Tax Agreement (SSUTA).

Oklahoma is a member of, and in full compliance with the SSUTA. Pursuant to Oklahoma's membership in the SSUTA, certain vendors voluntarily collect and remit state and local [city/county] sales and use tax to this state. A condition of Oklahoma's membership in the SSUTA is that local jurisdictions that levy a sales tax have only one local sales tax rate. Section 2 of SB1283 provides that from August 30, 2024¹ until June 30, 2025, if a county or municipality in Oklahoma proposes a new sales tax or excise tax increase and puts it on the ballot for voters to approve or reject, they must specify in the ballot question that the increased tax rate will NOT apply to "food and food ingredients" as defined in Section 1352 of Title 68 of the Oklahoma statutes. Any local increases in sales tax approved during this timeframe could result in multiple sales tax rates within the same local jurisdiction, placing Oklahoma out of compliance with SSUTA. Should Oklahoma fall out of compliance with the SSUTA, Oklahoma will lose certain voting privileges and use tax collections will decrease.

¹ The August 30, 2024, effective date assumes the Legislature adjourns sine die as presently scheduled on May 31, 2024.