

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	HB 3621
Version:	INT
Request Number:	8565
Author:	Rep. Virgin
Date:	2/9/2022
Impact:	Tax Commission:

State Sales Tax Decrease:
FY-23: (\$95,728,000)
FY-24: (\$203,708,000)
FY-25: (\$325,118,000)

Estimated Administrative Costs:
\$62,500

Research Analysis

HB3621, as introduced, exempts sales of *food and food ingredients* from the state sales tax in phases. *Food and food ingredients* is defined 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 foods, soft drinks and tobacco are excluded from the definition.

Currently, the state sales tax rate is 4.5 percent. The exemption would not be applicable to any sales tax levied by counties or municipalities. The following schedule is proposed for the exemption:

- 3 percent, starting FY 2023 (July 1, 2022 through June 30, 2023);
- 1.5 percent, starting FY 2024 (July 1, 2023 through June 30, 2024);
- Fully exempt from state sales tax effective FY 2025 (July 1, 2024) and thereafter.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

The measure proposes a partial state sales tax exemption for retail sales of food and food ingredients pursuant to a graduated state rate reduction as follows:

- FY 23 - 1.5% reduction to the current state rate of 4.5% resulting in a 3% state sales tax rate
- FY 24 – Additional 1.5% reduction to the 3% rate resulting in a 1.5% state sales tax rate
- Thereafter, the described sales shall be exempt from state sales tax.

It also provides that the proposed sales tax exemption shall not apply to any sales tax imposed by local taxing jurisdictions. Further, it defines relevant terms such as *food and food ingredients*¹, *alcoholic beverages*², *candy*³, *dietary supplements*⁴, *prepared food*⁵, *soft drinks*⁶ and *tobacco*⁷.

REVENUE IMPACT

The U.S. Census Bureau reports 1,480,061 households in Oklahoma with an average household consisting of 2.58 persons.⁸ 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 stamp⁹ 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 FY22. Application of the current 4.5% state sales tax rate results in an estimated \$269,908,599 in state sales tax revenues.

The state sales tax rate on food and food ingredients is reduced to 3% for FY 23 and to 1.5% for FY 24. Thereafter, the described sales are exempt from the state sales tax levy. Application of an inflation rate adjustment of 6.4% for each fiscal year will result in estimated decrease of \$95,727,583 in state sales tax revenues for FY 23, an estimated decrease of \$203,708,297 in state sales tax revenues for FY 24, and an estimated \$325,118,442 in state sales tax revenues for FY 25.¹⁰

¹ "Food and food ingredients" means 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 and do not include alcoholic beverages, bottled water, candy, dietary supplements, marijuana, prepared food, soft drinks, or tobacco.

² "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.

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 "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 division 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 "Supplemental Facts" box found on the label as required pursuant to 21 CFR, Part 101.36.

⁵ "Prepared food" shall mean food sold in a heated state or 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, but does not include a container or packaging used to transport the food and shall not include soft drinks, dietary supplements, or candy.

⁶ "Soft drinks" shall mean any non-alcoholic beverages, that contain natural or artificial sweeteners, but does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty (50%) of vegetable or fruit juice by volume.

⁷ "Tobacco" shall mean cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

⁸ Population Estimates, July 1, 2021.

⁹ Source: Oklahoma Tax Commission and United States Department of Agriculture.

Other Considerations

ADMINISTRATIVE COSTS

In order to administer the measure, the Oklahoma Tax Commission will require a minimum of two months to modify the sales tax reporting and remittance format, which will also result in an increase of \$62,500.00 in administrative costs for FY 23.

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