

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	SB 1495
Version:	ENGR
Request Number:	NA
Author:	Mr. Speaker
Date:	4/18/2022
Impact:	Tax Commission:

Sales Tax Revenue Decrease:
FY-23: (\$167,523,000)
FY-24: (\$305,562,455)

Administrative Costs:
\$62,500

Research Analysis

SB 1495 provides for a 0 percent state sales tax on food and food ingredients. The tax rate does not apply to cities, towns, counties, or other jurisdictions in the state, and any sales tax levied by such a jurisdiction will remain in effect.

Prepared By: Emily McPherson

Fiscal Analysis

Analysis provided by the Tax Commission:

SB 1495 which proposes a 0% state tax rate on sales of food and food ingredients¹. 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 water², candy³, *alcoholic beverages*⁴, *dietary supplements*⁵, *prepared food*⁶, and *soft drinks*⁷.

The U.S. Census Bureau reports 1,480,061 households in Oklahoma with an average household consisting of 2.58 persons⁸. 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. Application of an inflation rate adjustment of 6.4% for each fiscal year will result in estimated decrease of \$167,523,270 in state sales tax revenues for FY 23 and an estimated decrease of \$305,562,445 in state sales tax revenues for FY 24.

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. Food and food ingredients shall not include alcoholic beverages, dietary supplements, prepared food, and 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 one or more of the following ingredients: 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 this 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.

⁶ “Prepared food” means 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 prepared food shall not include food sold by a seller whose primary NAICS classification is manufacturing in sector 311, except subsector 3118, food sold in an unheated state by weight or volume as a single item, bakery items including bread rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas, and food sold that ordinarily requires additional cooking, not including just reheating, by the consumer prior to consumption.

⁷ “Soft drinks” means 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.

⁸ Population Estimates, July 1, 2021.

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

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 two months to implement.