

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1145
 Ways and Means

(Delegate M. Jackson, *et al.*)

Maryland Meals for Achievement Fund – Establishment

This bill imposes the State sales and use tax on the sale of snack food by repealing the current exemption. Snack food is defined as potato chips and sticks, corn chips, pretzels, cheese puffs and curls, pork rinds, extruded pretzels and chips, popped popcorn, and specified snack mixtures. The bill also establishes the Maryland Meals for Achievement Fund and directs all revenue generated from the sales and use tax on snack food to the fund. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: Special fund revenues increase by a significant amount beginning in FY 2021. Under one set of assumptions, special fund revenues increase by approximately \$25.3 million in FY 2021 and by \$28.5 million in FY 2025. Future year estimates reflect annual sales growth. General fund expenditures increase by \$81,300 in FY 2021.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	\$25.3	\$26.1	\$26.8	\$27.6	\$28.5
GF Expenditure	\$0.1	\$0	\$0	\$0	\$0
Net Effect	\$25.2	\$26.1	\$26.8	\$27.6	\$28.5

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The purpose of the Maryland Meals for Achievement Fund is to provide funding for (1) the State Free Feeding Program and (2) the Maryland Meals for Achievement In-Classroom Breakfast Program. Money expended from the fund for the State Free Feeding Program and the Maryland Meals for Achievement In-Classroom Breakfast Program is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the programs.

Current Law: The State sales and use tax rate is 6%, except for the sale of alcoholic beverages, which are taxed at a rate of 9%. The State sales and use tax is not generally imposed on the sale of food (including snack food) by retail stores.

Background: The General Assembly approved a tax on the retail sale of snack food at the 1991 first special session. The “snack tax” was repealed at the 1996 session with an effective date of July 1, 1997. At the 2004 session, the Senate approved a provision in the Budget Reconciliation and Financing Act that would have imposed the sales and use tax on snack food; however, this provision was not included in the enacted legislation.

The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$5.0 billion in fiscal 2020 and 2021, according to the December 2019 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

Exhibit 1
Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles; and 8.0% for specified soft drinks
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 2.5% for eligible food items; 2.5% for specified essential personal hygiene items; both rates include 1.0% for local jurisdictions
West Virginia	6.0% plus 0.5% (in one municipality) or 1.0% (in 45 municipalities)

*An additional state tax of 0.7% is imposed in localities in Northern Virginia and the Hampton Roads region, and an additional 1.7% is imposed in localities in the Historic Triangle.

State Revenues: Special fund revenues increase by a significant amount beginning in fiscal 2021 from imposing the State's 6% sales and use tax on specified snack foods. The amount of the increase depends on the volume of sales of the snack foods that are specified by bill.

Under one set of assumptions, special fund revenues increase by approximately \$25.3 million in fiscal 2021 and by \$28.5 million in fiscal 2025. The estimate is based on available data provided by IBISWorld, a global market research firm, and the following facts and assumptions:

- U.S. sales of snack foods, including peanut butter and nuts and seeds, will total \$42.6 billion in 2019;
- peanut butter and nuts and seeds represent 36.8% of total sales;
- potato chips represent 23.5% of total sales;
- tortilla and corn chips represent 18.8% of total sales;
- other chip products represent 17.8% of total sales;
- snack food sales in Maryland are proportionate to its share of the U.S. population (1.84%);

- total snack food sales in Maryland will decline 6% in the first year as a result of the imposition of the tax;
- future year estimates assume a 3% annual sales growth.

The estimate does not account for any potential changes in consumption beyond fiscal 2021. It should be noted that precise snack food sales data is not available for all categories of snack foods included in the bill, so the actual amount of revenues generated could be higher or lower than estimated.

State Expenditures: The Comptroller's Office will incur a one-time expenditure increase of \$81,300 in fiscal 2021 to notify the approximately 130,000 sales and use tax account holders of the sales tax change.

Small Business Effect: Revenues for small businesses (such as convenience stores) that sell snack foods could decrease if consumers alter their purchasing behavior due to the imposition of the tax. Expenditures may increase for small businesses that must modify their current systems to account for the collection of the sales and use tax on specific products that are considered snack foods.

Additional Information

Prior Introductions: Similar bills that would have repealed the sales and use tax exemption on snack food were introduced in prior years. These bills (HB 964 of 2015, HB 1214 of 2013, and HB 455 of 2012) received a hearing in the House Ways and Means Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland State Department of Education; IBIS World; Department of Legislative Services

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