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Presentation to Blue Ribbon Tax Reform Commission

Family Committee

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The Association of Commerce and Industry of New Mexico ("ACI") is New Mexico's recognized affiliate of the U.S. Chamber of Commerce and serves as New Mexico's state chamber of commerce. As such, it speaks for a cross-section of New Mexico business interests throughout the state.

ACI's Position on the Proposal to Remove Gross Receipts Tax on Retail Food Sales

ACI does not support granting retail sellers a gross receipts tax exemption or deduction for receipts from the sale of food to consumers.

While ACI supports lowering taxes to further the goal of economic development—a goal ACI regards as critical for all New Mexicans—ACI believes that exempting retail sales of food will have no positive impact on economic development. In fact, it might actually cause harm if it leads to tax increases on New Mexico businesses or undue cuts in necessary programs. If the Commission undertakes tax reduction, ACI prefers reductions in areas that it has identified as promoting economic development.

While at first blush, removing the gross receipts tax on retails sales of food seems like a good idea, it is not for many reasons in addition to the lack of an economic development component:

1. Exemption food from the gross receipts tax is a very inefficient method of achieving the intended goal-assisting low income New

Mexicans. Dollar-for-dollar, middle and upper income groups spend more money on food. Thus, exempting food would result in a much greater state revenue loss to upper and middle income New Mexicans than those the exemption is intended to benefit.

If the rates or base of the gross receipts tax or other taxes are increased to offset revenue loss in an attempt at being "revenue neutral," then lower-income New Mexicans might actually end up worse-off than before.

2. Purchases of groceries with federal food stamps are already free of the gross receipts tax. Thus, many lower-income New Mexicans avoid the gross receipts tax through participation in a federal program funded with federal dollars. For a relatively low cost, also largely funded by the federal government, New Mexico could increase participation in the food stamp program, and use federal rather than state resources to address concerns about the cost of food.

3. Elimination of the gross receipts tax on food is estimated to reduce revenues roughly $110-120 million dollars, or approximately 5% of all gross receipts tax revenues. Removal of this amount of gross receipts tax from the state's revenue is unprecedented. A revenue reduction of this magnitude is likely to make it difficult for lawmakers to do much to foster economic development, whether through tax incentives or programs involving expenditures.

   Unless lawmakers make spending cuts simultaneous with enactment of a deduction or exemption of this magnitude, there will be pressure to raise taxes to replace substantial lost revenue. This, in turn, will adversely affect New Mexico businesses by increasing the proportion of state services that they must support.

4. The logic behind proposals to replace the gross receipts tax on retail sales of food with taxes on tobacco or alcohol ("sin taxes") is flawed because they simply replace one regressive tax with another. Also, the volume of sales of tobacco products in New Mexico subject to state taxation has historically been declining, probably in part due to internet sales and in part due to sales by tribes and pueblos located close to most of New Mexico's primary population centers.

5. Proposals to reduce or phase out the gross receipts tax on sales of food will create administrative and compliance burdens for New Mexico retailers and the Taxation and Revenue Department. Retailers will have to create systems to track what is taxed, what is not taxed, and what is partially taxed. If only the state portion of the gross receipts tax on food is eliminated, additional compliance burdens are created for retailers that will then have to deal with two tax rates. The Department will have audit, policy and oversight

issues arising out of such distinctions, as well as an increased likelihood of disputes arising out of audits.

6. New Mexico gross receipts tax revenues have proven to be relatively stable compared to transaction-based taxes in other states. This makes state government long-range planning easier and helps to avoid frequent swings in program budgets or tax impositions. Stability and predictability is not only good for New Mexico's government, but also its business community.

   The gross receipts tax revenue stability is in large part because the tax is very broad-based tax and applies at a relatively low rate to most transactions. While food, electricity, natural gas, clothing, school supplies, water and medical services are taxed, so are landscaping services, financial services, business services and some intangibles. Some transactions are more stable, more predictable and consistent, than others. Sales of food fall into this category.

   Lopping off a particularly stable, and large, chunk from the gross receipts tax base (groceries alone comprise about 5% of the total) will create a narrower, less stable revenue system that puts New Mexico at greater risk of suffering the financial crises facing other states.

7. If the Commission addresses regressivity and vertical equity issues, then it should evaluate the issues as they apply to New Mexico's tax system as a whole rather focus than upon a single type of transaction. The gross receipts tax may be regressive for reasons apart from food—it may also be less regressive than a typical sales tax found in other states because it applies to high-end services typically purchased by businesses and higher-income individuals. Other New Mexico taxes may have regressive or progressive effects. Eliminating the tax on retail sales of food is not the most direct nor is it likely to be the most effective way to deal with regressivity and vertical equity of New Mexico's tax system as a whole.

If a goal of the Commission is to address regressivity and vertical equity, or to reduce the tax burden on lower-income New Mexicans, ACI suggests that the Low Income Comprehensive Tax Rebate (LICTR) is a better alternative to a massive single issue exemption or deduction that is not targeted at the intended beneficiaries. LICTR provides a direct, targeted cash income tax rebate only to those who are intended to receive the benefit. LICTR also addresses New Mexico's tax system as a whole, rather than assuming that food is the only equity or regressivity issue. For example, LICTR could be used to address issues that may have arisen for lower income New Mexicans out of the recent income tax cuts. Finally, the overall cost of LICTR, even with modifications being proposed by other organizations, is much less than blanket removal of receipts from retail food sales from the gross receipts tax base.