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## FISCAL IMPACT REPORT



SPONSOR: Lujan DATE 2/4/02 TYPED: HB 447

SHORT TITLE: Food Gross Receipts Tax deduction SB \_\_\_\_\_

ANALYST: Smith

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring Or Non-Rec	Fund Affected
FY02	FY03			
	(24,100.0)	(58,600.0)	Recurring	General Fund (Food)
	15,900.0	41,300.0	Recurring	General Fund (GRT)
	750.0	1,860.0	Recurring	General Fund (Comp)
	6,500.0	15,600.0	Recurring	General Fund (Cigarettes)
	(950.0)	160.0	Recurring	General Fund (Total)
	95.0	230.0	Recurring	Small Cities Assistance Fund
	95.0	230.0	Recurring	Small Counties Assistance Fund
	1,600.0	3,900.0	Recurring	UNM Cancer Center

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

This bill totally repeals the gross receipts tax on food. It holds local governments harmless from the deduction. House Bill 447 increases the cigarette tax from 21 cents/pack to 46 cents/pack; other beneficiaries of the tax are held harmless. Both the gross receipts tax and the compensating tax rates would be increased from 5% under present law to 5.25%.

The bill excludes from the gross receipts tax those call center receipts from *providing services* (e.g. technical support) primarily to non-New Mexico customers. This provision was passed by the Legislature during the 2001 session, and signed by the Governor, but did not become law because the same section of statute was amended by another bill that was signed later. The measure is included in the current bill to avoid the same problem, since other sections of this bill amend the same section of statute.

The increased municipal and county distributions, changed cigarette tax distributions and increased county equalization distribution are all effective February 1, 2003. The call center provision, gross receipts and compensating tax increases, the food deduction and the cigarette tax increase are all effective January 1, 2003.

### **FISCAL IMPLICATIONS**

The total tax bases for the gross receipts and compensating taxes are projected to grow faster than the deduction for receipts from food sales. As a result, the increase in tax rates will be more than enough to offset lost revenue from the food deduction by fiscal year 2004. The positive general fund impact shown by fiscal year 2004 is likely to increase over time.

The tobacco tax estimate hinges on assumptions about cigarette consumers' sensitivity to price; TRD assumes that the elasticity of demand is  $-0.7$ . Elasticities have historically been calculated over relatively small changes and where consumers' other alternative was to reduce their consumption. In New Mexico, consumers have the option of purchasing cigarettes from Native American retail outlets. Further, cigarettes are easily transported and store indefinitely.

The call center provision by itself would cause an uncertain but probably small loss of general fund revenue

### **TECHNICAL ISSUES**

TRD notes that Section 3 of the bill mandates that penalties be assessed against taxpayers who fail to *accurately* report claimed deductions. This has the effect of imposing a penalty on taxpayers who under-report the deduction (thus over reporting tax) as well as those who over-report the deduction. The language should be changed to penalize only those taxpayers overstating deduction claims.

### **OTHER SUBSTANTIVE ISSUES**

In New Mexico, 65,000 low-income families, with 163,000 persons, are food stamp recipients. Receipts from food purchased with food stamps (approximately \$137 million in FY 2001) are deductible from gross receipts.

SS/prr