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## FISCAL IMPACT REPORT

SPONSOR Tripp DATE TYPED 2-12-04 HB 542

SHORT TITLE Credit for State Portion of Food Tax SB \_\_\_\_\_

ANALYST Neel

### REVENUE

Estimated Revenue			FY07	Recurring or Non-Rec	Fund Affected
FY05	FY06	FY07			
(14,700.0)	(29,900.0)	(45,600.0)	(61,900.0)	Recurring	General Fund
340.0	700.0	1,050.0	1,420.0	Recurring	Local Gover.*

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to:

SB 106, Food Tax Gross Receipt Deduction;  
SB 557, Food Sales Gross Receipts Deduction

### SOURCES OF INFORMATION

LFC Files

Response Received From  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 542 amends statute to provide for a four-year phase in of a gross receipts credit for food purchased for home consumption. Other sections of statute is amended to hold local governments harmless.

The full amount of the credit is equal to 5% for transactions occurring outside municipalities and 3.275% for transactions occurring within municipal boundaries. This will effectively limit the

gross receipts tax on food to the local government portion, which varies from as little as 0.125% in some unincorporated areas to as much as 3.725% in some municipalities, depending on the local options imposed. Food and retail food stores are defined pursuant to the federal food stamp program. is defined as

### Significant Issues

According to TRD Retail food store(s)” must meet one of two criteria specified in the federal act. Under the first criterion, a retail food store must stock and offer for sale a variety of foods on a continuous basis in each of the four defined staple food categories, with perishable foods in a least two of those categories. Under the second criterion, more than 50 percent of a retail food store’s total gross retail sales must be in staple foods. The purpose of the second criterion is to encompass legitimate food retailers that may specialize in specific types of food, such as fish, meat, poultry or produce.

### **FISCAL IMPLICATIONS**

TRD cites the following assumptions:

***Food GRT Credit Estimate:*** Data sources: the 1997 Economic Census, the 1997 Census of Retail Trade in New Mexico, United States Department of Agriculture (USDA) estimates of food stamp program benefits to New Mexicans, and the New Mexico Taxation and Revenue Department’s “Analysis of Gross Receipts by Standard Industrial Classification” (Report-80).

Key steps in the estimate are as follows:

- (1) The 1997 Economic Census provides data at the national level on the proportion of total sales by various industry groups that is derived from sales of food for home consumption.
- (2) Total retail sales in New Mexico for each of these industries were identified using the 1997 Census of Retail Trade in New Mexico.
- (3) The proportion of sales attributable to food from step (1) were then applied to the 1997 retail sales figures.
- (4) Growth patterns for the industry groups in New Mexico were derived from the Report-80 and applied to the 1997 figures in order to estimate applicable food sales.
- (5) USDA estimates of New Mexico food stamp program benefits were subtracted from the taxable base because these sales are already exempt.

\*The small positive local government impact is due to what appears to be a technical error in the bill. The proposed food credit is limited to the state portion of the tax, so no additional local government hold harmless scheme is necessary. Multiplying the appropriate local option rates by the amount of the credit is not needed to hold local governments harmless for the credit.

**ADMINISTRATIVE IMPACT:** Major computer system changes will be required to accept and track the credit and to make the appropriate adjustments to local revenue distributions. Reprogramming the system to track the credits by location is possible. ***However, the July 1, 2004 effective date does not allow the department enough time for the transition. An effective date of January 1, 2005 should give the department enough time to incorporate the changes.***

**OTHER IMPACTS AND ISSUES:**

**TRD provides the following other substantive issues:**

***Regressivity of State Taxes:***

A tax is said to be “regressive” if it takes a higher percentage of income from poor households than it does from richer households. The gross receipts tax (“GRT”) on food is one of the regressive elements in the New Mexico tax structure. According to national survey results, the percentage of household income spent on food for home consumption decreases as household income increases. Although the state taxes many of the necessities of life in one form or another, the fact that food and healthcare are necessities enhances the perceived unfairness of the GRT.

A couple of provisions of current law mitigate to some extent the regressive impacts of the GRT:

1. Food purchased with food stamps is deductible from the GRT. 75,000 low-income families in New Mexico, with 195,000 persons, are food-stamp recipients. This provision excluded from tax approximately \$184 million--or about 10 percent of total food spending--of food purchases in FY 2003.
2. The Low Income Comprehensive Tax Rebate (LICTR) is intended to offset to some degree the regressive impacts of the GRT. LICTR is a refundable credit of up to \$450 per year for households with income of less than \$22,000.

***Stability and adequacy of state and local revenues:***

Food expenditures historically are a very stable component of the gross receipts tax base. Gross receipts tax collections from food help dampen volatility of state tax revenue collections over time. Over the last ten years, gross receipts tax collections on food have grown at a stable 1.7% compound rate per year. This proposal would reduce projected GRT revenue by about 7.5%, and state General Fund revenue by about 2.6%.

***Other States’ Sales Tax Treatment of Food:***

Of the 45 states that impose a sales or gross receipts tax, 28 have exemptions for food. Of the 17 states that tax food, five do so at a reduced tax rate. Of the thirteen states that fully tax food sales, seven (including New Mexico) offer income tax credits or rebates to offset at least part of the tax on food.

**POSSIBLE QUESTIONS**

Would the 50 percent staples requirement included as the definition of retail food store exclude retailers with diversified stocks such as Wal Mart?

**BT/lg**