# F I S C A L   I M P A C T   R E P O R T

**SPONSOR** Ortiz y Pino **ORIGINAL DATE** 3/07/07 **LAST UPDATED** **HB**

**SHORT TITLE** Soft Drink Sale Gross Receipts **SB** 957

**ANALYST** Schardin

**REVENUE (dollars in thousands)**

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|---|---|---|---|---|
| **FY07** | **FY08** | **FY09** | | |
| | $5,082.0 | | Recurring | General Fund |

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with SB 530

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Department of Health (DOH)
Taxation and Revenue Department (TRD)

**SUMMARY**

Synopsis of Bill

Senate Bill 957 amends Section 7-9-92 NMSA 1978 to remove nonalcoholic flavored beverages containing a sweetener additive such as corn fructose, sugar, or aspartame from the list of foods eligible to receive the gross receipts tax deduction for retail food that was enacted in 2004.

The effective date of this provision will be July 1, 2007.

**FISCAL IMPLICATIONS**

TRD reports that according to the American Beverage Association, the average American consumed 52 gallons of soft drinks per year in 2004. Given New Mexico's population, that means about 100 million gallons of soft drinks are consumed in New Mexico each year. About 77 percent (77 million gallons) of soft drink products are packaged and likely to be sold in retail food stores, but only about half of those 77 million gallons (38.5 million gallons) are sold in stores that qualify for the gross receipts tax deduction created in Section 7-9-92 NMSA 1978. Assuming each gallon of soft drink costs $2, the tax base the bill excludes about $77 million of sales from the food tax deduction. Taxed at a statewide rate of 6.6 percent, the bill would increase general fund revenue by about $5,082 thousand (100 million gallons X 77% packaged X 50% sold at food stores X $2 per gallon X 6.6% tax). Since local governments are held harmless from the food deduction created in Section 7-9-92 NMSA 1978, this entire revenue increase would benefit the general fund.

**SIGNIFICANT ISSUES**

The bill discourages consumption of soft drinks by increasing their price relative to other beverages. A 12 ounce can of soda contains 10 teaspoons of sugar. According to DOH, US consumption of sweetened beverages has doubled in adults and tripled in adolescents since the 1970s. Since the same time, milk consumption has declined by 30 percent.

**PERFORMANCE IMPLICATIONS**

DOH reports that the bill relates to Task 3.2 of the governor's performance and accountability plan, which is to reduce the prevalence of obesity and diabetes.

**ADMINISTRATIVE IMPLICATIONS**

TRD reports that implementing the food and medical deductions has been unusually complicated and expensive due to programming necessary to distribute hold-harmless payments to local governments. Currently, the definition of food items eligible for the food deduction is the same as the definition for the federal Food Stamps program. Changing the definition will cause administrative problems to grow.

Retail food stores will also experience administrative impacts. Food stores will need to reprogram their systems to include receipts from soft drink sales in the taxable portion of sales.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 957 conflicts with Senate Bill 530, which amends the same section to expand the definition of retail stores to include establishments with over 75 percent of sales attributable to sales of bottled water, ice, and coffee.

**TECHNICAL ISSUES**

TRD notes that the original intent of Section 7-9-92 NMSA 1978 was for receipts from all food that may be purchased with Food Stamps to be deductible from the gross receipts tax.

TRD notes the definition of a soft drink should be improved since some juices, fruit-flavored drinks, sports drinks, flavored water, bottled teas and coffees contain corn fructose, sugar or aspartame. According to the American Beverage Association, regular soft-drinks contain 7 to 14 percent sugars, the same as some juices.

SS/csd