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

SPONSOR Sanchez, B. **ORIGINAL DATE** 01/21/10 **LAST UPDATED** 02/11/10 **HB**

SHORT TITLE Narrow Food Tax Deduction to Staple Foods **SB** 10/aSCORC

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	$138,096.0	$144,753.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB31, SB81, SB236, SB247 and HB250

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 10 strikes the word “staple” from the bill and changes the definition of food to mean:

> “any food or food product that is an eligible food for purposes of the special supplemental nutrition program for New Mexico Women, Infants and Children administered by the Department of Health or that is fresh or frozen meat, poultry or fish with no additional ingredients or only minimal additional ingredients;”.

Synopsis of Original Bill

Senate Bill 10 amends Section 7-9-92 NMSA 1978 to narrow the gross receipts deduction for food purchases to the sales of staple foods at retail food stores. Staple food means a food or food product, including meat, poultry, fish, bread, cereal, vegetables, fruits or dairy products, for home consumption that meets the definition of staple food in 7 USCA 2012 (r) (1) for purposes of the federal supplemental nutrition assistance program (SNAP).

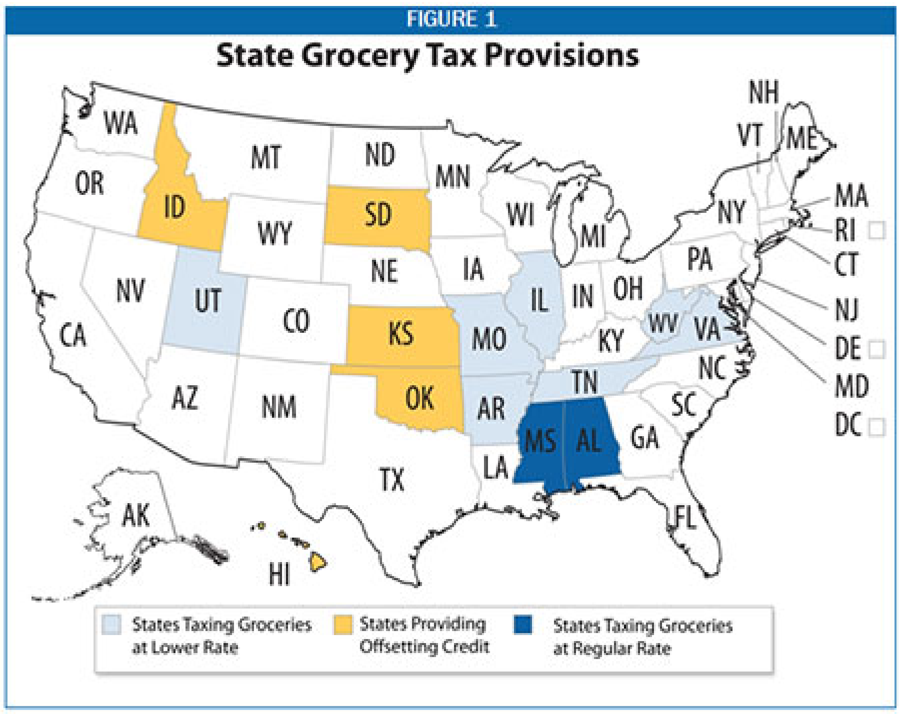
The effective date of the provisions of this act is July 1, 2010.

FISCAL IMPLICATIONS

According to the U.S. Census Bureau's 2008 Consumer Expenditure Survey, roughly 39 percent of all foods sold in retail stores fall under the definition of food as defined in this amended bill. In fiscal year 2009, food deductions from gross receipts were $2.97 billion and the average tax rate on food was 7.03 percent. Assuming food deductions grow at roughly 3 percent in FY10 and roughly 5 percent in FY11 and beyond and the tax rate remains the same, this bill would increase general fund revenue by $138 million in FY11 and $145 million in FY12. 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

In 2009, 31 states and the District of Columbia exempted food for home consumption from the state tax rate. Seven other states tax food consumption at a lower rate than their state sales tax rate. Five states tax food at the state level but allow a rebate or income tax credit to compensate poor households. New Mexico both excludes food and has a low-income rebate.



Source: Center on Budget and Policy Priorities

By broadening the gross receipts tax base slightly, the bill would allow a lower tax rate to generate the same amount of revenue. This improves the economic efficiency of the tax.

It would be beneficial to clarify or further define "minimal additional ingredients".

TRD:

Food purchased with food stamps are already tax exempt, and would remain tax exempt under the bill's proposal.

Using the food definition proposed in this bill would not allow New Mexico to participate in the streamlined sales tax program.

This bill will have a compliance cost for retailers because they would have to differentiate between products that qualify for food stamps and products that qualify for the food deduction (currently they are the same set of products).

ADMINISTRATIVE IMPLICATIONS

TRD:

Experience with the current food deduction indicates that a high number of errors may occur in reporting (especially initially), which would affect "hold harmless" distributions to local governments that can require significant resources to research, correct, and explain to local officials. However, a smaller percentage of total gross receipts in New Mexico would be subject to the food deduction, limiting impacts when reporting errors do occur.

RELATIONSHIP

Senate Bill 10 relates to:

SB31 – narrows the food tax deduction by excluding food products commonly referred to as "soft drinks" from the gross receipts deduction and distributes the revenue from taxing soft drinks to the county-supported Medicaid fund
SB81 – expands the definition of retail food store to include establishments with over 75 percent of sales attributable to bottled water, ice and coffee can receive the gross receipts tax deduction for food enacted in 2004
SB236 – phases out the gross receipts tax deduction for the sale of food
SB247 – phases out distributions to municipalities and counties that are based on the gross receipts tax deduction for the sale of food
HB250 – narrows the food tax deduction by excluding soft drinks, candy, chewing gum, potato chips or sticks, corn chips or pretzels, cheese puffs or curls, pork rinds, popped popcorn, and cookies, cakes, pies, donuts or other pastries from the definition of food

OTHER SUBSTANTIVE ISSUES

DOH:

The 2008 U.S. Census Current Population Survey (CPS) states 16.7% of New Mexicans are living in poverty. And that New Mexicans living in poverty spend a larger proportion of their disposable income on food as compared to wealthier New Mexicans. New Mexico ranks 5th in the nation as a Food Insecurity State, which means 14.5% of New Mexicans are not sure where their next meal is coming from or chronically hungry. Twenty percent (20%) of New Mexico's children regularly miss meals because of inadequate family income (The New Mexico Plan to Promote Healthier Weight 2006-2015).

BLG/mt:mew

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc